

APPENDIX

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TABLE OF CONTENTS

Step 1: Acknowledge Receipt of FOIA Request and Understand Your Statutory Deadlines.....	1
Step 2: Evaluate the FOIA Request and Determine Fees to be Charged, if Any.....	11
Step 3: Plan and Conduct a Search for Responsive Records.....	17
Step 4: Develop and Implement a Plan for the Review of Potentially Responsive Documents...	43
Step 5: Production of Responsive Records.....	91
Step 6: Administrative Appeals*.....	X
Step 7: Litigation*	X

*There are no materials for this step.

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TABLE OF CONTENTS

STEP 1: Acknowledge Receipt of FOIA Request and Understand Your Statutory Deadlines

Initial Short FOIA Response Template.....	2
Initial Detailed FOIA Response Template.....	3
Closure for Failure to Modify FOIA Request Template.....	7
Requests Seeking Only Information Publicly Available on EPA's Website Template.....	9

Initial Short FOIA Response Template

This template is a short initial note that you can send via FOIAonline, letting the requester know your contact information, that you are reviewing the request and that you will be back in touch promptly once you have had a chance to review fully the request. This can be accomplished by clicking the “Create Correspondence” tab in FOIAonline or by sending via e-mail and then uploading into FOIAonline.

Subject: [FOIA ID # XXX-XXXX]

Dear [FOIA Requester]:

My office has received your FOIA request. I will contact you again after we have had an opportunity to review the request fully. I will be your point of contact. Please feel free to contact me directly with any questions or concerns. Additionally, at any point in time, you may seek assistance from EPA’s FOIA Public Liaison at hq.foia@epa.gov or (202) 566-1667, or from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, MD 20740-6001; email: ogis@nara.gov; telephone: (202) 741-5770 or (877) 684-6448; or fax: (202) 741-5769.

Sincerely,

[Your Name]

[Your Phone Number]

Initial Detailed Response Template

*This template provides optional sections and language to fit the circumstances of any particular request. If the requester provides telephone contact information, it is always a **best practice** to accompany the initial response letter with a telephone call to the requester. When using this template, read the sections below carefully and edit the bracketed portions consistent with the request at issue. Send via regular mail on Agency Letterhead and upload correspondence in FOIAonline or send as an email via FOIAonline.*

[DATE STAMP]

[Name
Organization
Street
City, State Zip]

Re: Freedom of Information Act Request No. EPA-XX-XXXX-XXXXXX, Initial Response

Dear Mr./Ms. [Last name]:

Thank you for your Freedom of Information Act request. This letter concerns the above-referenced Freedom of Information Act (FOIA) request, received by the U.S. Environmental Protection Agency (EPA or Agency) on [MONTH DAY, YEAR], in which you requested

[INSERT directly what the FOIA request stated or accurately paraphrase description of requested records].

Opportunity to Discuss and Modify (if needed)

[Edit as appropriate]

Your request is *[too broad to be completed within 20 days and/or does not reasonably describe the records you are seeking in a way that will permit EPA employees to identify and locate them.]*

For example, we would like to discuss the types of records you are interested in, and the possible locations of these records. We would like to further understand the specific subject matter of the records so that we are able to craft a search and provide you with the records you seek.

[EXPLAIN WHY YOU CANNOT IDENTIFY AND LOCATE THE RECORDS].

In addition, requests phrased as legal discovery, e.g., for all records “including but not limited to” and “pertaining to” a subject with no further limitation, do not provide adequate information to allow a professional employee to determine which records you wish EPA to provide.

EPA's FOIA regulations state:

“Whenever possible, your request should include specific information about each record sought, such as the date, title or name, author, recipient, and subject matter. If known, you should include any file designations or descriptions for the records that you want. The more specific you are about the records or type of records that you want, the more likely EPA will be able to identify and locate records responsive to your request.”
40 C.F.R. § 2.102(c).

We would like to provide you the opportunity to discuss the request with us and clarify the records that you are seeking so that EPA can process your request. As indicated in 40 C.F.R. § 2.102(c), please include or be prepared to discuss any specific information about the records you seek, including time period, authors, or a more detailed description of the records' subject matter.

Unusual Circumstances and Extension of Time *(if needed)*

[Edit as appropriate]

Pursuant to 40 C.F.R. § 2.104(d), an extension of time to respond to your request is necessary. Given the scope of the request, EPA anticipates that

[...the response will require significant amount of EPA's resources and time to search for, and appropriately examine the voluminous amount of records to complete this request and/or

...to search for and collect the requested records from multiple EPA offices that are separate from the office processing the request” and/or

...the need for consultation with another agency having a substantial interest in the determination of the request.”]

EPA has initiated the coordination of and search for responsive records in our files. Because of the circumstances described above, it is difficult to predict with certainty how many records may be involved. [Optional: *Nonetheless, at this time, EPA estimates the Agency will be able to complete this request by [DATE, MONTH, YEAR]. We appreciate your patience.*]

[Only if Relevant: Since the time of your request and as of today's date, EPA has received additional FOIA requests about [Topic] including several requests that were approved for expedited processing. These expedited requests will be processed before your request. However, many of the documents that are responsive to those requests will also be responsive to your request. These documents will be made publicly available on a rolling basis as they are produced.]

Processing Fees (if needed)

[Edit as appropriate]

[Option 1: On [DATE], the EPA's National Freedom of Information Office granted the fee waiver request that accompanied the FOIA request. Therefore, you will not be assessed fees.

Option 2: On [DATE], the EPA's National Freedom of Information Office denied the fee waiver request that accompanied the FOIA request. Therefore, we must receive an assurance of payment before processing the request.

Option 3: You were placed in the "other" fee category, which means you will be charged for search, and duplication costs in accordance with the Agency's regulations under 40 C.F.R. Part 2, Subpart A. Therefore, we must receive an assurance of payment before processing the request.

Option 4: You were placed in the commercial fee category, which means you will be charged for search, review, and duplication costs in accordance with the Agency's regulations under 40 C.F.R. Part 2, Subpart A. Therefore, we must receive an assurance of payment before processing the request.

Option 5: You were placed in the "media/educational" fee category, which means you may be charged for duplication costs in accordance with the Agency's regulations under 40 C.F.R. Part 2, Subpart A.]

Publicly Available Information (if needed)

The following are sources of publicly available information that you can access immediately:

[Edit as appropriate to your request. You may include fire links to other relevant FOIA responses, your Program specific website, and any of the links below]:

- Our website: <https://www.epa.gov/home/advanced-search>
- FOIAonline for records previously released through FOIA requests: <https://foiaonline.regulations.gov/foia/action/public/search/>
- Frequently requested records: <https://www.epa.gov/foia/national-online-foia-library#request>
- Environmental Topics Information repositories: <https://www.epa.gov/environmental-topics/z-index>
- Technical/scientific/educational publications: <https://www.epa.gov/nscep>
- Administrative and Environmental Appeals Board cases: <https://www.epa.gov/foia/national-online-foia-library#opinions>
- Staff Manuals and Guidance: <https://www.epa.gov/foia/national-online-foia-library#admin>
- Policy Statements: <https://www.epa.gov/foia/national-online-foia-library#statement>
- Superfund sites and data: <https://www.epa.gov/foia/national-online-foia-library#superfund>

Next Steps

[Edit as appropriate]

The processing clock is stopped for your FOIA request until we receive *[your assurance of payment [and/or] your clarification or modification.]*

Please respond within ten calendar days from the date of this letter to arrange a time to discuss your *[request and fees]*.

You may contact *[Program Contact]* at *(email address)* or at *(telephone number)* with your response or if you have any further questions. If we do not receive a response from you *[By X Date (at least 20 days from date of letter)]*, we will consider your request to be voluntarily withdrawn. *[Edit as appropriate: Once the request is clarified and we receive a written assurance of payment, we will continue processing your FOIA request]* and provide you with an estimated timeframe for completion. If you wish to request information connected to this request in the future, please reference the FOIA request number.

Additionally, you may seek assistance from EPA's FOIA Public Liaison at hq.foia@epa.gov or (202) 566-1667, or from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, MD 20740-6001; email: ogis@nara.gov; telephone: (202) 741-5770 or (877) 684-6448; or fax: (202) 741-5769.

Sincerely,

[NAME]
[TITLE]

9/14/2017

vi

Closure for Failure to Modify FOIA Request Template

This template is for correspondence to a requester who has failed to modify an improper request. This should be used only after it is clear that the requester will not modify a request. Send via regular mail on Agency Letterhead and upload correspondence in FOIAonline or send as an email via FOIAonline.

[DATE STAMP]

[Name
Organization
Street
City, State Zip]

Re: Freedom of Information Act Request No. EPA-XX-XXXX-XXXXXX, Closure For Failure to Modify

Dear Mr./Ms. [Last name]:

Thank you for your Freedom of Information Act request. This letter concerns the above-referenced Freedom of Information Act (FOIA) request, received by the U.S. Environmental Protection Agency (EPA or Agency) on [MONTH DAY, YEAR], in which you requested

[INSERT directly what the FOIA request stated or accurately paraphrase description of requested records].

Your request does not reasonably describe the records you are seeking in a way that will permit EPA employees to identify and locate them. The EPA's FOIA regulations explain:

“Whenever possible, your request should include specific information about each record sought, such as the date, title or name, author, recipient, and subject matter. If known, you should include any file designations or descriptions for the records that you want. The more specific you are about the records or type of records that you want, the more likely EPA will be able to identify and locate records responsive to your request.” 40 C.F.R. § 2.102(c).

We sent you a letter dated [DATE] providing you the opportunity to clarify the records that you are seeking so that EPA can process your request. We asked that you contact us by [DATE], with your clarification, and we have not received additional information from you, so we are administratively closing your request.

This letter concludes our response to your request. You may appeal this response by email at hq.foia@epa.gov, or by mail to the National Freedom of Information Office, U.S. EPA, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, DC 20460. Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue. If you are submitting your appeal by hand delivery, courier service, or overnight delivery, you must

vii

9/14/2017

address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, DC 20001. Your appeal must be in writing, and it must be received no later than 90 calendar days from the date of this letter. The Agency will not consider appeals received after the 90-calendar-day limit. Appeals received after 5:00 pm EST will be considered received the next business day. The appeal letter should include the FOIA tracking number listed above. For quickest possible handling, the subject line of your email, the appeal letter, and its envelope, if applicable, should be marked "Freedom of Information Act Appeal." Additionally, you may seek dispute resolution services from EPA's FOIA Public Liaison at hq.foia@epa.gov or (202) 566-1667, or from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, MD 20740-6001; email: ogis@nara.gov; telephone: (202) 741-5770 or (877) 684-6448; or fax: (202) 741-5769.

Sincerely,

[NAME]
[TITLE]

Requests Seeking Only Information Publicly
Available on EPA's Website Template

This template can be used for responding to requests that seek only information publicly available on EPA's website. Send via regular mail on Agency Letterhead and upload correspondence in FOIAonline or send as an email via FOIAonline.

Subject: *[FOIA ID #XXX-XXXX]*

Dear Mr./Ms. *[Last name]*:

This is in response to your Freedom of Information Act (FOIA) request, identified above, dated *[Month, Day, Year]*, that you submitted to the U.S. Environmental Protection Agency (EPA). Your request seeks the following documents:

[INSERT directly what the FOIA request stated or accurately paraphrase description of requested records].

The information that you are seeking is publicly available on EPA's website at *[describe where on EPA's website material can be found and insert link to that location]*. Because this information is publicly available, your FOIA request for this information is being administratively closed, in accordance with EPA's FOIA regulations. See 40 C.F.R. Part 2, Subpart A.

If you consider this response to be a denial of your request, you may appeal this response by email at hq.foia@epa.gov, or by mail to the National Freedom of Information Office, U.S. EPA, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, DC 20460. Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue, N.W. If you are submitting your appeal by hand delivery, courier service, or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, DC 20001. Your appeal must be in writing, and it must be received no later than 90 calendar days from the date of this letter. The Agency will not consider appeals received after the 90-calendar-day limit. Appeals received after 5:00 pm EST will be considered received the next business day. The appeal letter should include the FOIA tracking number listed above. For quickest possible handling, the subject line of your email, the appeal letter, and its envelope, if applicable, should be marked "Freedom of Information Act Appeal." Additionally, you may seek dispute resolution services from EPA's FOIA Public Liaison at hq.foia@epa.gov or (202) 566-1667, or from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, MD 20740-6001; email, ogis@nara.gov; telephone, (202) 741-5770 or (877) 684-6448; or fax, (202) 741-5769.

Thank you for your interest in this information.

Sincerely,

[NAME]
[TITLE]

9/14/2017

x

TABLE OF CONTENTS

**STEP 2: Evaluate the FOIA Request and
Determine Fees to be Charged, if Any**

Checklist for Clarifying Requests.....	12
New Complex FOIA Project: Initial Meeting with Team Checklist.....	13
FOIA Fees Decision Tree.....	14
Confirmation of Clarification Template.....	15

Checklist for Clarifying Requests

This checklist is a quick reference for things to consider when attempting to identify components of a request that may be missing or ambiguous and for which clarification is needed.

*While EPA's regulations cite the categories below as items that should be included in a request, failure to include one or more of these categories **does not** automatically make the request improper or not reasonably described.*

Categories of Information to Discuss with Requester for Clarification:

The more categories on which you and the requester can agree, the more straightforward processing the request will be.

- ☐ **Type(s) of Records:** Emails, Documents, Memoranda, Notes, Presentations, Text Messages, Schedule, Voicemail, Data, Logs, etc.
- ☐ **Subject Matter/Topic/Search Terms**
- ☐ **Date Range**
- ☐ **Specific Departments/Custodians/Positions**

New Complex FOIA Project: Initial Meeting with Team Checklist

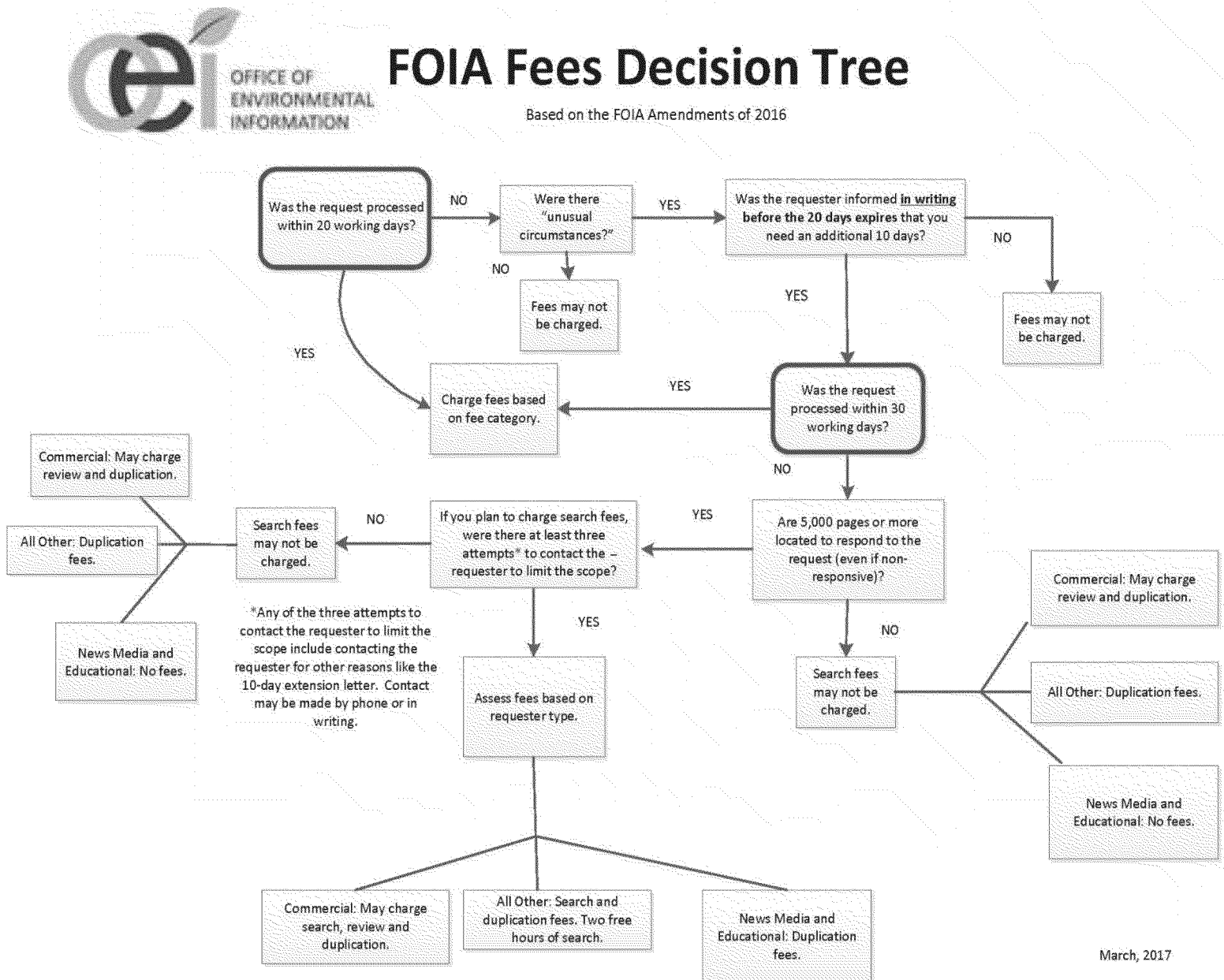
This checklist may assist the Action Office in coordinating the initial meeting with the Contributing Offices and any other necessary parties and begin meaningful collaboration on the FOIA request. This checklist assumes the request has been clarified with the requester.

Participants for an initial discussion: Lead contact and Subject Matter Experts from Action Office and FOIA Coordinator and Subject Matter Experts from Contributing Office(s).

- ☐ Identify and Clarify the following roles:
 - FOIA Coordinator for each office; and
 - Lead contact in the Action Office and any other lead contact(s) from Contributing Office(s) to include on all internal correspondence.
- ☐ Listen carefully and ask questions. Think through:
 - Scope;
 - Time Period;
 - Potential Custodians;
 - Record Types, Locations, and Systems; and
 - Potential Search Terms.
- ☐ Timing
 - FOIA Clock
 - How many days remain on the FOIA clock? and
 - Are there unusual circumstances permitting the Agency to extend the due date?
 - Potential Resource Concerns
 - What do the team's resources look like?
 - Any upcoming large projects?
 - Emergency Project or anticipated resource issues?
 - Familiarity with Relativity?

FOIA Fees Decision Tree

The following flow chart can assist with determining which fees should be charged to the requester.



March, 2017

9/14/2017

xiv

Confirmation of Clarification Template

This template is to document any clarification that the requester has made regarding a pending FOIA request. It is a best practice to document any modification of the request in writing. Send via regular mail on Agency Letterhead and upload correspondence in FOIAonline or send as an email via FOIAonline.

[DATE STAMP]

[Name
Organization
Street
City, State Zip]

Re: Freedom of Information Act Request No. EPA-XX-XXXX-XXXXXX, Confirmation of Clarification

Dear Mr./Ms. [Last name]:

Thank you for your Freedom of Information Act request. This letter concerns the above-referenced Freedom of Information Act (FOIA) request, received by the U.S. Environmental Protection Agency (EPA or Agency) on [MONTH DAY, YEAR], in which you requested

[INSERT directly what the FOIA request stated or accurately paraphrase description of requested records].

Clarification

On [DATE] you spoke to [CONTACT] regarding the scope of your request. During the conversation you clarified your request as follows:

[Edit as appropriate to reflect your conversation and the needs of the request... you may wish to include information about:

Type(s) of Records: *Emails, Documents, Memoranda, Notes, Presentations, Text Messages, Schedule, Voicemail, Data, Logs, etc.*

Subject Matter/Topic/Search Terms:

Date Range:

Specific Departments/Custodians/Positions:

Estimated Date of Completion and Fee Estimate

*[Provide an estimated date of completion and appropriate information regarding fees]***Next Steps**

[Edit as appropriate]

EPA has initiated the coordination of and search for responsive records in our files. During the call, we agreed to set up regular check-in calls to keep you updated. **Our next call is scheduled for *[insert date]*.**

Please contact [Contact] if you have any questions about your request. Additionally, you may seek assistance from EPA's FOIA Public Liaison at hq.foia@epa.gov or (202) 566-1667, or from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, Room 2510, 8610 Adelphi Road, College Park, MD 20740-6001; email, ogis@nara.gov; telephone, (301) 837-1996 or (877) 684-6448; or fax, (301) 837-0348.

If you wish to request information connected to this request in the future, please reference the FOIA request number.

Sincerely,

[NAME]

[TITLE]

TABLE OF CONTENTS

**STEP 3: Plan and Conduct a Search for
Responsive Records**

Search Instruction Template for Potential Custodians.....	18
Search Tracking Memo.....	21
Instructions for Searching & Collecting Other Electronic Files.....	22
Instructions for Searching & Collecting Lotus Notes Email.....	29
Access to Absent and Separated Employee Records.....	37
Quick Reference Guide: How to Save Text Messages.....	39
FOIA Search Guide: Best Practices.....	41

Search Instruction Template for Potential Custodians

These are model search instructions for the Action Office to provide to potential record custodians, both in the Action Office and Contributing Offices. These instructions should be customized to reflect the search plan that the Action Office and Contributing Office develop to search for and collect all non-Outlook records.

As part of the Search Plan, the Action Office should identify a Point of Contact (POC) who will collect all responsive and nonresponsive records and upload releasable, responsive records to FOIAonline. Each Contributing Office should also identify a POC who will collect records from Contributing Office custodians, propose redactions where appropriate, and transfer both unresponsive records and responsive records to the Action Office POC through an agreed-upon method of transfer.

Search Instructions

You have been identified as a potential custodian of responsive records to a Freedom of Information Act (FOIA) request. The request **[FOIA Request Number]** concerns **[describe the request and any modification agreed upon with the requestor]**. A copy of the request and any relevant communication with the requester is attached for your reference.

Reminder: In accordance with EPA's FOIA Procedures, you should track and record the time spent searching for responsive records.

STEP 1: CONDUCT THE SEARCH

Please search the following locations for responsive records: *[The Action Office should select the appropriate locations from the list below.]*

- Lotus Notes mailboxes or calendars, other Lotus Notes databases*
- Enterprise Content Management System (ECMS)
- Local or shared computer drives (C:, F:, G:, etc.);
- SharePoint sites
- OneDrive
- Mobile devices (e.g., text messages and photographs)
- Voicemail
- External drives and discs
- Hard-copy files
- Other

* Please use the following key words in your Lotus Notes search or other non-Outlook electronic search:

- *[The Action Office should provide search terms here.]*

Attached for your reference are step-by-step instructions for conducting a search of [Lotus Notes]/ [ECMS]/ [Other Electronic Files]. The Action Office should select and attach applicable instructions.

STEP 2: CONFIRM THE SEARCH IS COMPLETE

When you have completed your search, please send an email, with the subject line: “Search Response for [FOIA Request Number]” to Action Office Point of Contact@epa.gov. In your email, including the following information:

- The number of records located each search location [If you did not locate any records, please note this in your email];
- The time spent searching for responsive records

STEP 3: TRANSFER SEARCH RESULTS FOR REVIEW

[For Action Office Custodians]: Once you have completed your search of all non-Outlook records, in accordance with Step 1, above, and confirmed that your search is completed (Step 2), you will need to review those records for responsiveness. For both responsive and nonresponsive records, please collect the records in accordance with the instructions below. You may also be asked to review the responsive records for potential FOIA exemptions, once all responsive records are collected.

[For Contributing Office Custodians]: Once you have completed your search of all non-Outlook records, in accordance with Step 1, above, and confirmed that your search is completed (Step 2), you will need to review those records for responsiveness. For both responsive and nonresponsive records, please collect the records in accordance with the instructions below. Contributing Office POC will review responsive records for potential redactions and may seek your input before providing both responsive records and nonresponsive records to the Action Office.

[For Lotus Notes]: As described in the attached Lotus Notes Search Instructions, all Lotus Notes records should be uploaded to the Lotus Notes Collection Database. You will receive an email with a hyperlink that allows you to access the database.

All other records: *[The Action Office Point of Contact (POC) should select from sample instructions provided below]*

For collection via Lotus Notes Collection Database: Please include all other electronic files in the Lotus Notes Collection Database as described in Step 6 of the Lotus Notes Search Instructions.

For collection via email: Consolidate all responsive records in a folder on your computer, labelled as “Your Name, FOIA Request Number, Folder # of #_Responsive” and all non-responsive records in a folder labelled “Your Name, FOIA Request Number, Folder # of #_Nonresponsive.” You will send these folders via email to [For Action Office custodians: Action Office POC@epa.gov] or [For Contributing Office custodians: Contributing Office POC@epa.gov]. Due to limitations on file size, you may need to compress the folder(s) and/or send multiple emails. For each email, use the folder label as the subject line.

For collection via OneDrive: Action Office POC and/or Contributing Office POCs will need to create “responsive” and “unresponsive” folders for each custodian on OneDrive. Using the following link: [link to OneDrive folder], upload all responsive and unresponsive records into the corresponding folders.

For collection via thumb drive: Create a folder on the thumb drive titled “Your Name, FOIA Request Number” and separate subfolders for responsive and nonresponsive records. Upload all responsive records and nonresponsive records to corresponding subfolders and save on a thumb drive. Please deliver this drive to Action Office POC or Contributing Office POC.

Note: All hardcopy documents should be scanned into an electronic document and transferred to Action Office POC or Contributing Office POC in accordance with the instructions above.

Search Tracking Memo

This memo provides an example of how the Action Office may document the search plan and track the search process.

Action Office:

Point of Contact:

Contributing Offices or Regions:

Point(s) of Contact:

Requester:

FOIAonline Number(s):

Subject of Request:

Date Range:

Custodians:

Name	Office (if separated N/A)	Tasked (Date)	Completed (Date)
------	------------------------------	---------------	------------------

The following databases were searched:

Repository

- ☐ Outlook
- ☐ Lotus Notes
- ☐ ECMS
- ☐ CMS
- ☐ Local or shared computer drives
- ☐ Hard-copy files

Repository

- ☐ SharePoint Sites
- ☐ OneDrive
- ☐ Mobile Devices
- ☐ Voicemail
- ☐ External Drives and Discs
- ☐ Other:

Search Terms Used:

Total Number Responsive Records: _____

Instructions for Searching & Collecting Other Electronic Files

These instructions are for custodians who may be searching and collecting electronic files. If applicable, please include this as an attachment to your Search Instructions for custodians.

xi

Using the search terms provided in the Search Instructions, search for responsive records located in the other computer drives to which you have access. This includes, but is not limited to, your C: drive and your F: drive on your EPA computer. Unless you are designated by the Action Office/ Contributing Office Point of Contact to search a shared drive, such as the G: drive, you should limit your search to those drives to which you have sole access.

Note: Computer drives cannot be collectively searched. For each search term, you will need to conduct a separate search within each drive that you have identified as containing potentially responsive records.

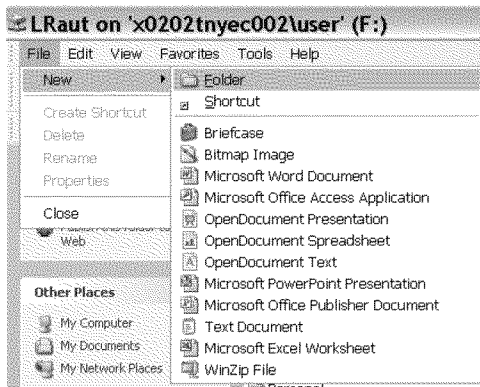
Below are detailed instructions that will guide you through the following steps:

- (1) Create search folders to collect search results and final collection folders for responsive and nonresponsive records
- (2) Conduct term-specific searches of a single drive, and repeat for each drive
- (3) Copy search results into a search folder
- (4) Consolidate all search results into the final collection folders and search for duplicates
- (5) Review files for responsiveness and sort into subfolders
- (6) Optional: upload files to the Lotus Notes Collection Database.

Step 1. Create Search Folders

Before you begin your search for records, you will need to create folders to store the records from each search. You will then consolidate these folders into a “Final Collection” folders for responsive and nonresponsive records. To create and name the “Search Results” folders and “Final Collection” folder, do the following:

- ✓ Select the “**File Explorer**” located on your desktop or on the task bar at the bottom of your screen.
- ✓ Create a folder either by selecting *Home > New Folder* or *File > New > Folder* as shown below. [How to create the folder may vary depending on the computer system]



- ✓ Name the folder using a simple convention, such as “Search Results [insert # of search].” Do NOT use the case name or any search term in the folder name.
- ✓ Repeat this process for each search, and to create a “Final Collection” folder where you will copy all of the records from the search folders.
- ✓ In the “Final Collection” folder, create two subfolders, one for “responsive” records and the other for “nonresponsive” records.

Step 2. Conduct the Search

Below are some tips to assist with your electronic document search. These tips would apply to searches for files located, for example, in Word, Excel, PowerPoint, WordPerfect, Adobe, and .tif documents, saved in your C:drive, F:drive, and G:drive (if applicable).

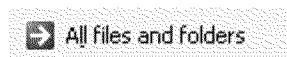
One place to start is with a Windows Search of an entire drive, such as the C:Drive. To perform such a search, follow the steps below.

Windows Explorer Search for Entire Drive

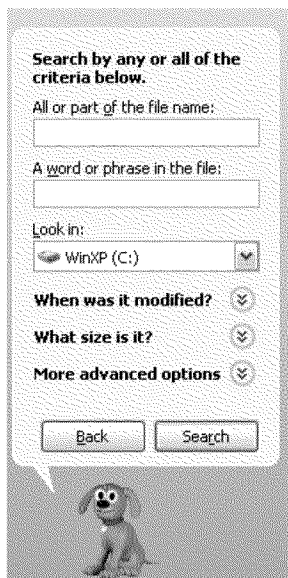
- ✓ From the “Start” menu, select “Search.” *Start > Search*



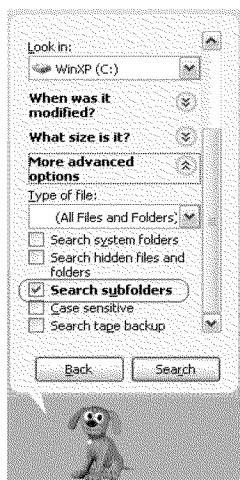
- ✓ Select “Files and Folders” (3rd option from the top) from the list at the left side of the screen.



- ✓ Identify the drive that you want to search (C:, F:, etc.).
- ✓ Type the search term in the box entitled “A word or phrase in the file.”



- ✓ Click on “More Advanced Options” at the bottom of the search menu. Make sure that only “Search Subfolders” is checked.
- ✓ Click “Search.”



Depending upon the number of files, the search may take anywhere from 5 minutes to 40 minutes. If the search completes successfully, the search companion will indicate that the search is done and that the search has found a specific number of documents.

- ✓ Record this number for later reference.

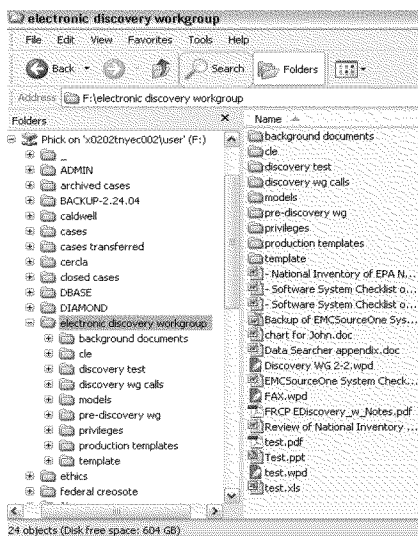
If when searching, the search unexpectedly stops running, the green “progress” bar stops moving, or the search gets stuck in one folder, consider searching each subfolder within a drive separately per the instructions below.

Windows Explorer Search for Subfolders within a Drive

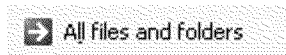
- ✓ Select *Start > Windows Explorer*



- ✓ Highlight the subfolder that you would like to search and click “Search.”



- ✓ Select “All Files and Folders,”



- ✓ Type the search term into the box entitled “A word or phrase in the file”
- ✓ Select “More Advanced Options” and select *only* “Search Subfolders”
- ✓ Click “Search”

Depending upon the number of files, the search may take anywhere from 5 minutes to 40 minutes. If the search completes successfully, the search companion will indicate that the search is done and that the search has found a specific number of documents.

- ✓ Record this number for later reference.

If when searching, the search unexpectedly stops running, the green “progress” bar stops moving, or the search gets stuck in one folder, proceed with a manual search. The instructions below may assist you with performing that search.

Manual Search

In conducting a manual search, review those locations in the drive that are reasonably likely to contain responsive records.

Step 3. Copy Records to Search Folders

- ✓ As you complete each search, go to the Toolbar, click *Edit > Select All*. Right click and drop down to **Copy**.
- ✓ Go to the Search folder created to hold documents pulled from that specific search, open it, right click, and select “**Paste**” from the drop-down menu. The documents will appear in that folder.

Repeat Steps 1 through 3 for each of the drives to which you have sole access.

Step 4. Copy Records from the Search Results Folders to the “Final Collection” Folder

- ✓ Once you have completed your search, you should consolidate all documents collected in your Search Results folders into a Final Collection Folder. Open one Search Folder so that you can see all of the files inside the folder. Go to the Toolbar, click *Edit > Select All*. Right click and drop down to **Copy**.
- ✓ Go to the Final Collection folder created to hold all documents. Open the folder, right

click, and select “**Paste**” from the drop-down menu.

- ✓ Repeat for all Search Folders until all files are located in the Final Collection Folder.

Because you will need to search each drive for every search term, it is likely that a file will respond to more than one search and that you will have the same file saved in more than one Search Folder. To eliminate duplicates in your Final Collection Folder, do the following:

- ✓ When you open the Final Collection folder and paste the highlighted documents into that folder, if the document is a duplicate of a document already in the folder you will get a dialog box “**Confirm File Replace.**” Click “**No**” for each document for which such a box appears because it is a duplicate.

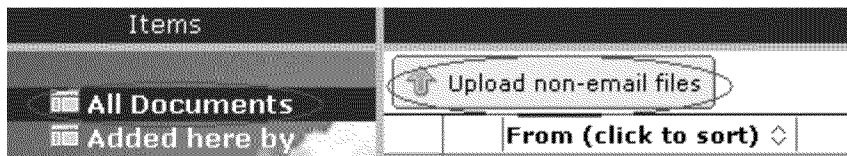
Step 5. Sort Responsive Records from Nonresponsive Records

Review documents in the Final Collection folder for each drive to make sure that they are actually responsive to the FOIA request and were not captured because of the presence of a search term used in another context. All responsive records should be separated into a “Responsive” Subfolder; all nonresponsive records should be separated into a “Nonresponsive” Subfolder.

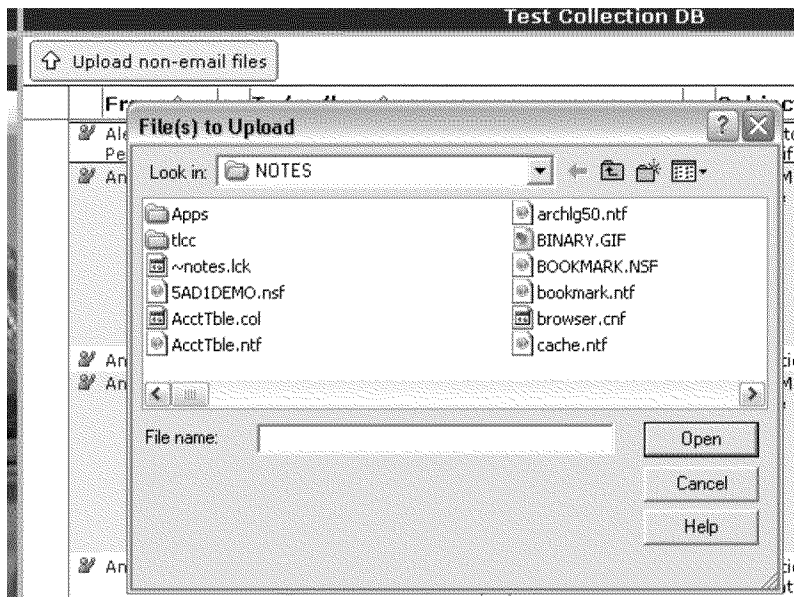
OPTIONAL: Step 6. Upload Documents to Collection Database

Please refer to the Search Instructions for guidance on how to transmit your files to the Action Office/Contributing Office Point of Contact. If the Search Instructions direct you to use the Lotus Collection Database to receive all electronic files, please follow the instructions below.

- ✓ Open the All Documents view of the Collection Database and click on the green button at the top of the view labeled “**Upload non-email files**”.



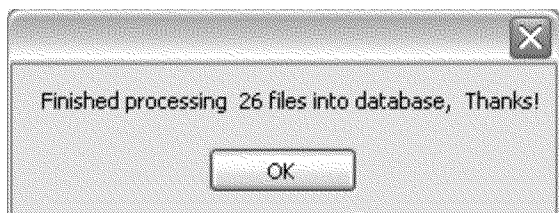
A new box will appear from which you must select your file.



- ✓ Go to the location where you have saved the search results and open that folder.
- ✓ To select more than one file, simply hold down the <Shift> key and click on the first desired filename and then click on the last one. All the files between those will automatically be chosen.
- ✓ If the desired files are not sequential, press <Ctrl> and click on each filename that you wish to include.

If you receive an execution security alert, click on the third option under the “What to Do” heading that says: Start Trusting the Signer to execute this action.

After the files are uploaded you will get the following notice:



Please make note of the confirmed number of items since default setup for a collection database is a “ballot box” style collection where you cannot see any items in the collection, including your own. Refer to Step 3 of the Search Instructions for details on how to transfer your results to the appropriate Point of Contact.

Instructions for Searching & Collecting Lotus Notes Email

These are instructions for custodians who may be searching and collecting electronic Lotus Notes files. If applicable, please include this as an attachment to your Search Instructions for custodians. Note that any request seeking emails sent/received prior to February 2013 require a Lotus Notes search.

Note: These instructions are subject to change as of January 2018. OEI will provide additional guidance on searching Lotus Notes at that time.

To fulfill your responsibility under the FOIA, you will need to manually search your Lotus Notes Email for any potentially responsive records and collect these records in the Collection Database(s). Search terms have been provided to you in the Search Instructions, and you have received an email with the link(s) to the Collection Database(s). If you have not received the link(s) or misplaced the email that includes the link(s), please contact the Action Office/Contributing Office Point of Contact responsible for overseeing this FOIA request in your office.

Below are detailed instructions to guide you through the following steps:

- (1) Index your Inbox emails
- (2) Access the Collection Database(s)
- (3) Create a folder to organize your search results by responsiveness
- (4) Perform the search for emails
- (5) Review the search for responsiveness and sort into subfolders
- (6) Upload records to the Collection Database(s)
- (7) Repeat Search, Review, and Collection for Archived emails
- (8) Search and print ECMS (EZ Record) emails
- (9) Delete indexes

Step 1. Index Your E-mail

Before you search for and collect emails, you *must* index your emails. Indexing your emails ensures that e-mail attachments are included in the search.

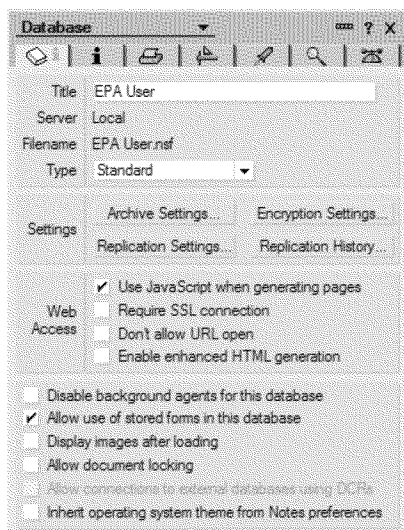
Indexing a large mail file will take several hours. (Most e-mail files are large!)

However, you can continue to use your email normally while the indexing process is running. You may also close your email and/or turn off your computer. This will not interrupt the indexing. Here's how it works:

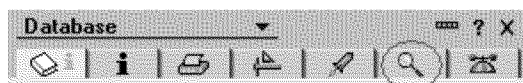
- ✓ Open your Lotus Notes Email Inbox

- ✓ On the menu bar in the upper left corner of your Notes screen select:

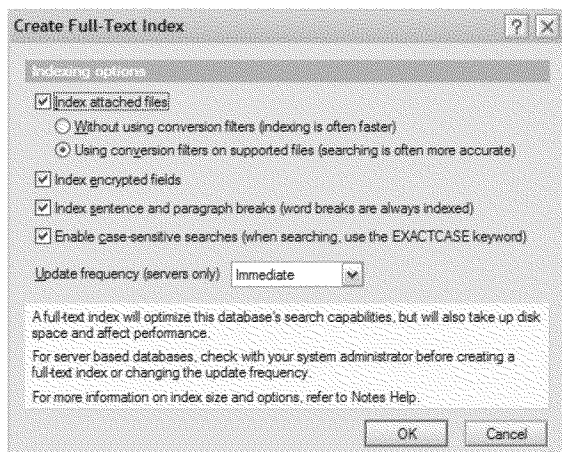
File > Application > Properties in Notes 8



- ✓ Select the tab with the magnifying glass icon.



- ✓ Click the **Create Index** button, make the selections below (or follow local instructions), and click **OK**.



- ✓ Close the Database Properties box

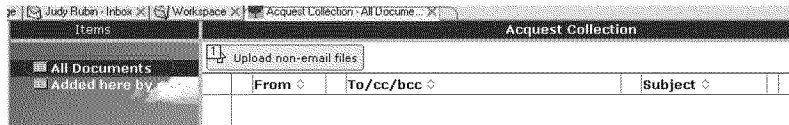
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9/14/2017

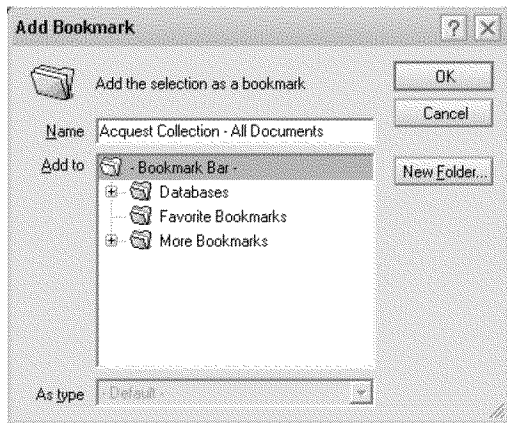
Step 2. Open the Collection Database(s)

By this point, you should have received an email containing a link to the Collection Database. Follow the instructions below:

- ✓ Click on the link to open the database. For easy access to the database, you will create a bookmark by following the steps below.
- ✓ Right click on the database tab at the top of your screen



- ✓ Select **Create Bookmark**. The following screen will appear:



- ✓ Make sure that “Bookmark Bar” is highlighted and press **OK**. The “Tree” icon will now appear at the bottom of your bookmark bar on the left side of your email Inbox screen.

Both your Email Inbox and the Collection Database(s) are now open, so you can easily switch between your mailbox and the database(s) by selecting the desired tab.

Step 3. Create a “Search Results” Folder and Final Collection Folder

Before you upload emails to the Collection Database, you will transfer the emails from your inbox into a separate “search results” folder and into “responsive” and “nonresponsive” subfolders. To create these folders, do the following:

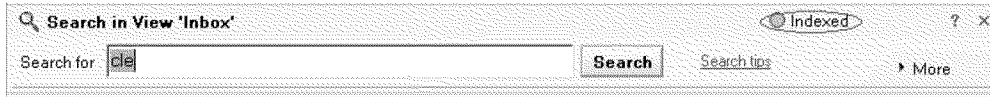
- ✓ In your Inbox select *Actions > Folder > Create Folder*
- ✓ Name the Folder “Search Results,” and click **OK**
- ✓ Within the “Search Results” Folder, select *Actions > Folder > Create Folder* to create “Responsive” and “Nonresponsive” subfolders.

xxxi

9/14/2017

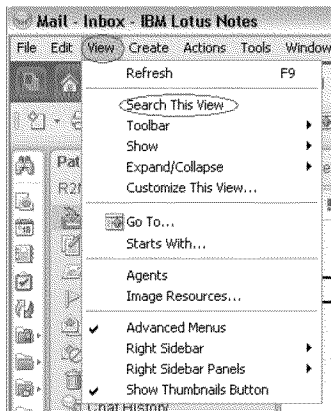
Step 4. Perform Search for Emails

NOTE: Make sure that your e-mail is indexed prior to conducting the search. When indexing has completed, you should see a green ball ● and "Indexed" to the right of the search function.

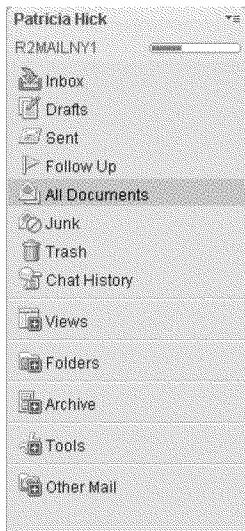


If you do not see the search box:

- ✓ Click *View > Search this View* from the menu bar at the top of your Notes screen.



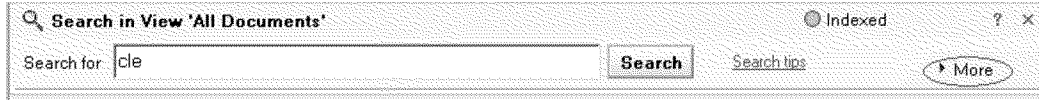
- ✓ On the listings at the left side of your Inbox select *All Documents*. This will capture all potentially responsive documents, even if emails are stored in folders.



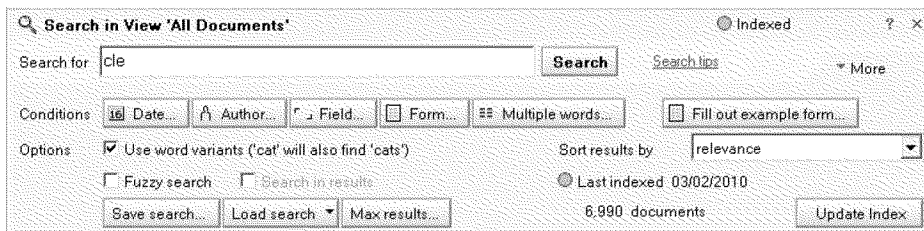
The “Search in View” will now indicate that the search will consider “All Documents.”



- ✓ Click on **More** at the right side of the screen to reveal additional options.



The screen should now look like the snapshot below:



Clicking on the **Multiple words** box will allow you to choose up to eight words for your search.

- ✓ Enter the search terms provided in the Search Instructions and click **Search**. Your search results will appear below the Search window.

Note: Lotus Notes has a search limit of 5,000 documents. If your search returns “5,000” documents, there are probably more potentially responsive emails that were not captured. You will need to do one of the following to address this issue:

- Refine your research terms (talk with your POC prior to doing this)
 - Conduct multiple searches using fewer terms
 - Contact your local help desk to request removal of the search limit.
- ✓ Select *Edit > Select All*, then click *Actions > Folder > Move to Folder* and select the “Search Results” Folder and click the **Add** button.

Do NOT copy and paste search results into the folder. This creates duplicates and will overwhelm future searches.

Repeat these steps above until you have searched for all relevant search terms and have deposited potentially responsive emails in the “Search Results” folder.

- ✓ Click <Ctrl A> to reveal the number of documents collected in the “Search Results” folder in the lower left of the Notes screen. Tip: Record this number so that you can later verify that you have transferred all documents from your Notes to the Collection Database.

Note: The “Search Results” folder will only contain an unduplicated collection of documents. Even if an email responded to multiple searches, it will only appear once in the folder.

Step 5. Review Search Results for Responsiveness

Once you have completed the search, you should review emails and attachments to make sure that they are actually responsive to the FOIA request. It is possible for a search to collect documents that use a search term in context that is outside the scope of the request and are therefore not responsive.

- ✓ On the left side of your in-box in Notes select *Folders > Search Results*
- ✓ If an item is clearly not responsive, select the document and sort into “Nonresponsive” subfolder. Sort responsive records into the “Responsive” subfolder. You will upload all search results into the collection database, but indicate to the document reviewer which records are nonresponsive.

Do NOT delete any items from folders. Either follow the instruction above or drag and drop documents between folders.

Step 6. Upload Responsive Search Results into Collection Database(s)

After you have reviewed the records in Lotus Notes, you will need to copy them into the Collection Database(s). Depending on the number of records, you may need to copy them in several batches (of no more than 100); copying and pasting a large batch may also take several minutes.

- ✓ Open the “Responsive” and “Nonresponsive” subfolders in the “Search Results” folder and select *Edit > Select All* from the menu bar (at the very top left of your Notes screen)
- ✓ Select *Edit > Copy* from the menu bar
- ✓ Select *Edit > Deselect All* from the menu bar. Do NOT skip this step.
- ✓ Open the Collection Database by selecting the bookmark that you created in Step 2.
- ✓ Open the “All Documents” folder
- ✓ Select *Edit > Paste* from the menu bar at the very top left of your Notes screen

Repeat these steps until you have copied all of your search results from your e-mail to the

xxxiv

9/14/2017

Collection Database.

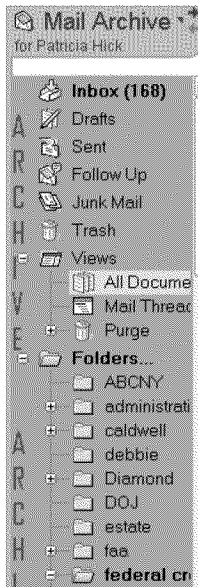
You will receive a dialog box confirming the number of items you pasted. This number should match the number of search results recorded in Step 4.

Step 7. Repeat Search, Review, and Collection for Archived Emails

The search described above will not capture emails that were archived and deleted from the inbox. You will need to repeat Steps 1-5 for emails that you have saved in your Lotus Notes Archive.

- ✓ Access your Archive from your Notes inbox by clicking *Archive > R2 etc. Archive*.
- ✓ Repeat Step 1 to index your Archive.
- ✓ Repeat Step 2 to open the Collection Database.
- ✓ Repeat Step 3 to create a “Search Results” folder.

Before you begin the search, make sure that you are in the All Documents view in Archive, as shown below:



- ✓ Follow the directions in Step 4 to conduct the search(es) using the search terms provided.
- ✓ Repeat Step 5 to review the search results, if applicable.
- ✓ Repeat Step 6 to upload records to the Collection Database(s)

Step 8. Search and Print EZ Record Emails

You will need to manually search ECMS for responsive emails that are not already captured in your Inbox and Archive search. Please visit the following site for further instructions:

<http://intranet.epa.gov/ecms/guides/search/>

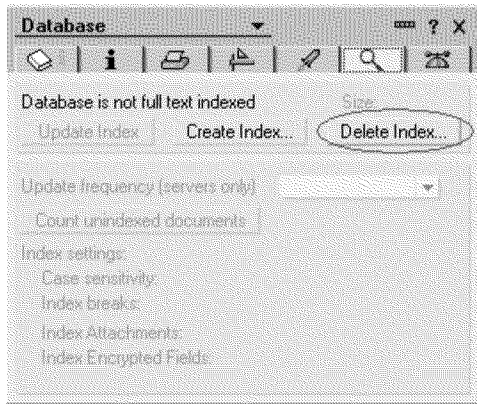
Any responsive emails should be printed and either provided to your FOIA coordinator in hard-copy form or scanned and uploaded/emailed in accordance with Search Instructions.

Step 9. Delete Indexes

Mailboxes that are indexed use substantially more space than an un-indexed mailbox, so you should remove the index once you have completed your search for records.

- ✓ Open your Lotus Notes Email Inbox
- ✓ On the menu bar in the upper left corner of your Notes screen select:

File > Application > Properties in Notes 8 > Delete Index



Your Lotus Notes Email Collection is now complete. Please notify the Action Office/Contributing Office Point of Contact.

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Access to Absent and Separated Employee Records

This document provides additional guidance for the Action Office for custodians who have departed the agency or who are otherwise unable to conduct their own search.

to an Absent or Separated Employee's Email and Data

If a potential custodian of responsive records is on scheduled leave from the Action Office or a Contributing Office during the time of the search, the Action Office must ensure that the employee's records are searched in their absence. The Office of Environmental Information has a procedure on accessing the email and electronic records of separated or absent employees.

To request access, the Action Office processing the request must send an email, requesting access, to the custodian's manager (or former manager, in the case of separated personnel). If the manager approves the request, they then forward the request, via email, to their Information Resources Management Branch Chief (IRM BC) or Information Management Official (IMO). If the IRM BC or IMO approves the request, they forward the request to [OEI FILE ACCESS REQUEST@epa.gov](mailto:OEI_FILE_ACCESS_REQUEST@epa.gov).

The email requesting access should include the information in the table below. The email subject line should include the nature of the request (i.e. Access to email). Please note that access to the OEI File Access Request mailbox includes federal and contractor email staff necessary to support the request.

Table must be completed by the Approver (IRM BC or IMO) and submitted in the Email to OEI FILE ACCESS. Email Subject must include the nature of the request (i.e. email access)	
Role	Name
Approver	John Doe (IMO, IRM BCs or their designee whose name has been provided as authorized approvers)
Mail Box Name Employee's full name Employee's LAN ID Telephone number	Doe.Jane@epa.gov Jane Any Doe Jdoe 111-222-3333
Person Receiving Access (Include email address)	Steven Jones (Jones.StevenT@epa.gov)

xxxvii

9/14/2017

Access Needed for the Following Applications (as applicable):	<ul style="list-style-type: none"> ○ Legacy Notes ○ Office 365 (Including OneDrive) ○ Data Files (network drives, (F: and/or G:)(EZ Tech) ○ HQ Voice mail files ○ HQ VoIP Call logs ○ Mobile device data ○ Login Events (EZ Tech)
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Managers may request access to an absent or separated employee's email files (Legacy Notes and Office 365), data files contained on OneDrive or network drives, voice mail files, call logs, and mobile devices by contacting the Office of Environmental Information (OEI). Once the manager has received access to these files, the manager is responsible for manually searching these files. OEI will not perform searches, nor is OEI responsible for data contents of any files. Moreover, OEI will not sign affidavits pertaining to the search or acquisition of files.

The table below depicts the type of information available and the time limit for requesting access to the related data.

Electronic Activities	Content	Request Time Limit
Legacy Notes	Emails, Calendars	Unlimited
Office 365	Email, Calendar, OneDrive	2/29/2013 - Forward
Data Files (network drives, (F: and/or G:) – EZ Tech Users	File and Folders	Unlimited
HQ Voice mail files	Voice mails	20 days
HQ VoIP Call logs	Outbound call/inbound calls	01/01/2014 - Forward
Mobile device data	Call Detail Reports (including text messages logs)	7 years
Login Events – EZ Tech Users	Login activities	30 days

As each access request is completed, the Action Office requesting the information will be notified and any instructions, if necessary, provided through the IRM BC or IMO. A list of IRM BCs and IMOs, by office, is available at the "SIO Corner" Sharepoint site, accessible through the EPA Intranet.

Quick Reference Guide: How to Save Text Messages


This document offers guidance on how to forward text messages from a mobile device to the EPA email system. These instructions are originally located at:

<http://intranet.epa.gov/mobiledevices/pdf/Instructions-Saving-Text-Messages.pdf>.

iii

EPA discourages the use of text messages for transmitting substantive (or non - transitory) federal records. (Wait, what is a “non - transitory” or “substantive” record?) If a substantive (or non - transitory) text message is sent or received on your government-issued mobile device, it must be saved into an EPA-approved records management system. If you follow the steps below, you can forward the text message into the EPA email system and then later save it as a record using EZ Email Records or another approved recordkeeping system. When forwarding the text message from the mobile device to the EPA email system, you must include contextual information such as the time, date, subject, and sender/recipient of the message. Please follow the instructions below to manage text messages that are substantive (or non - transitory) records.

How to Forward Text Messages to Email from an iPhone

1. Tap the “**Messages**” icon  on the device.
2. Find the text message conversation that you need to save as a record.
3. Tap and hold one of the text messages in the conversation.
4. Tap the “**More**” option that appears above the text message.
5. Put a check mark in the circle beside any or all of the text messages that you want to save as records.
6. Tap the blue arrow icon in the lower right corner of the screen.
7. Type your EPA email address in the “**To**” field.
8. After the text message, enter contextual information about the message including: to, from, date, time, and a relevant subject, then tap “Send.” For example, add “(To: Susan Employee, From John Worker, Date: 01.01.15, Time: 6:35 PM, Subject: Project Y).” Press “**Send**”.
9. After receiving the email containing the text message, follow the EZ Email Records process in Outlook to save the email as a record. After following these instructions, you may also notice that a copy of the message containing the contextual information created in step 8, appears in your list of messages in the Messages app on your phone.

Note: If you have problems forwarding text messages to email using the above instructions, please try the below options, starting with Option 1, below.

Option 1:

1. Tap the Settings App > Messages > Send & Receive
2. If your email address is listed with a checkmark next to it, tap on it to uncheck.
3. Exit out of Settings and try to forward a text message to your email. If you don’t have an email listed or it still doesn’t work, try Option 2.




**Be sure to check your Junk Email folder to ensure it did not route there.*

Option 2:

1. Tap the Settings App > iTunes & App Store > Apple ID > Sign Out
2. Re-enter your Apple ID (work email address) and Apple ID password.

3. Exit out of Settings and try to forward a text message to your email.

How to Forward Text Messages to Email from a Windows Phone

1. On **Start** , tap "**Messaging**" , then tap the thread that contains the text message you want to save as a record.
2. Open the text message, press and hold the message to be forwarded, then click "**Forward**".
3. Type your EPA email address in the "**To**" field.
4. After the text message, enter contextual information about the message including: to, from, date, time, and a relevant subject, then tap . For example, add "(To: Susan Employee, From John Worker, Date: 01.01.15, Time: 6:35 PM, Subject: Project Y)."
5. After receiving the email containing the text message, follow the EZ Email Records process in Outlook to save the email as a record.

Note: This approach for saving text messages on a Windows phone can only be used for forwarding individual text messages. If multiple messages need to be stored as records, forward each message and the related contextual information to EPA's email system individually.

Technical Assistance

If you have questions about managing records on your mobile or portable devices, contact the Records Help Desk, and refer to the Frequent Questions about Mobile and Portable Devices, and Records for more information.

FOIA Search Guide: Best Practices

This document offers simple, take-away tips for conducting a search.

As you oversee the search for records responsive to a FOIA request, keep in mind the following recommended best practices:

- ✓ **Do NOT conduct a search for an improper request.**
Before you plan your search, make sure that the request “reasonably describes the records sought.” If the request is overly broad, poses questions, or seeks records not yet in existence, contact the requester to modify the request.
- ✓ **Document the process from start to finish.**
Any external communications that you have with the requester, as well as any notable intra-agency communication pertaining to the request, should be memorialized in writing. Documented changes to the request and any correspondence that you have with the requester should be uploaded to FOIAonline.
- ✓ **Keep an eye on the clock.**
Unless you can identify “unusual circumstances,” you will have 20 working-days to conduct a reasonable search and provide the requester with responsive records. Remember, you can stop the clock *once* to seek clarification from the requester, but remember to re-start the clock once the request is clarified and keep track of the amended due date on FOIAonline.
- ✓ **Planning your search is essential.**
Before you begin your search, you should compile a search plan that identifies the relevant offices, repositories, and custodians. Do not forget about absent or former employees!
- ✓ **Maximize the Centralized Search.**
OEI’s Centralized Search will only capture records in EPA’s Microsoft Office 365 system, including Outlook email/calendar and Skype/Lync Chats. As soon as you distribute the Search Instructions, remind custodians to transfer any potentially responsive records from, for example, mobile devices (e.g. text messages and photos) to Outlook Email so that they will be captured in the centralized search.
- ✓ **Remember to Conduct a Defensible Search.**
Remind Custodians to search all locations where they are reasonably likely to find responsive records. This may include lesser-used locations, including CMS and external drives.
- ✓ **Prepare for Collection.**
Once custodians complete their search, you will need to collect and review records. Consider using a cloud-based collection option, such as OneDrive, for the collection of documents that are not sourced from Lotus Notes and not captured in OEI’s centralized search.

✓ When in Doubt, Ask.

The General Law Office's Information Law Practice Group, the FOIA Expert Assistance Team within the Office of General Counsel, the Office of Regional Counsel, if the matter concerns a Regional FOIA, and the National FOIA Program Office are available to assist you.

TABLE OF CONTENTS

**STEP 4: Plan and Conduct a Search for
Responsive Records**

Proprierty Business Information (PBI) Case Tracking Standard Operating Procedures (SOP)....	44
Substantiation Request Letter Sample A-Generic Substantiation, FOIA.....	49
Substantiation Request Letter Sample B-Generic Substantition, Non-FOIA.....	53
Substantiation Request Letter Sample C-FIFRA, FOIA.....	57
Substantiation Request Letter Sample D-FIFRA, Non-FOIA.....	60
Substantiation Request Letter Sample E-TSCA.....	64
Relativity Guidance.....	70
Redacting in Adobe Acrobat Pro DC.....	86

Proprietary Business Information (PBI) Case Tracking
Standard Operating Procedures (SOP)

PROPRIETARY BUSINESS INFORMATION CASE TRACKING

A. Purpose:

- a. Ensure proper tracking in FOIA Online of all Freedom of Information Act (FOIA) requests for records containing PBI.

B. Procedures:

Headquarters Request where program withholds information under FOIA Ex. 4:

1. Include the following language in the initial denial letter:

The information withheld under Exemption 4 will be sent to the appropriate legal office to issue a final confidentiality determination. The appropriate legal office will contact you to confirm your continued interest in receiving a final confidentiality determination and provide you with a fee estimate, where appropriate. Therefore, you do not need to appeal the information withheld pursuant to Exemption 4. To the extent you would like to appeal any other issue, including any non-Exemption 4 withholding, you may appeal this response... [FOLLOWED BY APPEAL LANGUAGE]

2. Notify the National FOIA Office to create a PBI tracking number in FOIAonline:

a. Email FOIA_HQ@epa.gov

b. Email Template:

Subject: PBI Case Tracking number for [EPA-HQ-20XX-XXXXXX]

Please create a PBI case tracking number for the following initial FOIA request:

Initial Request Number: [EPA-HQ-20XX-XXXXXX]

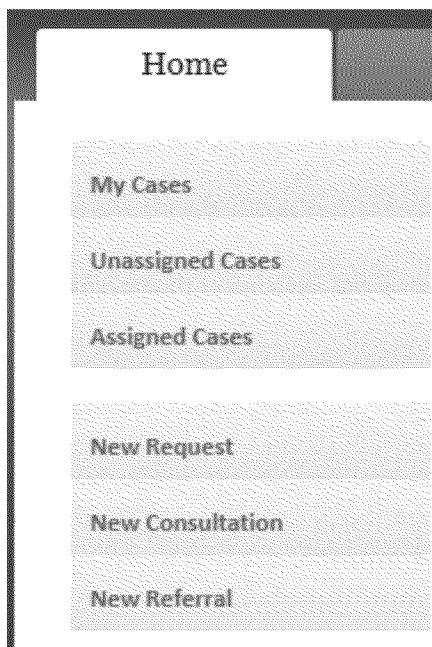
Requester Name: [NAME]

Requester Address: [ADDRESS]

Requester Email Address: [EMAIL]

3. National FOIA Office creates PBI case and assigns to OGC/GLO:

- a. Select “New Request”



- b. Agency and Submitted Date is pre-populated -> Select “Headquarters” as Sub-Agency
c. Select “PBI” as Request Type:

Request Type Selection

* Request Type :

- d. Fill in contact information as provided by program
e. Processing Fees information pre-populated
f. Fill in Description (OGC to provide confidentiality determination for information initially withheld under FOIA Exemption 4 in response to FOIA request no. EPA-HQ-20XX-XXXXXX.):

? * Description : 155/2000

OGC to provide confidentiality determination for information initially withheld under FOIA Exemption 4 in response to FOIA request no. EPA-HQ-20XX-XXXXXX.

- g. Select Preview -> Submit

4. National FOIA Office assigns PBI Case to OGC

5. ILPG Appeal Team Leader or Assistant General Counsel will assign PBI Case to ILPG Attorney

6. ILPG Attorney is responsible for:

a. Contacting requester to:

1. Confirm continued interest in receiving a final confidentiality determination;
2. Closing out PBI request if requester fails to confirm interest or is not interested in receiving a final confidentiality determination;
3. Providing an estimate of fees where appropriate;
4. Closing our PBI request if requester fails to assure payment of fees;
5. Notifying program office of need to request substantiation from affected business(es) and provide program recommendation where appropriate;
6. Issue final confidentiality determination;
7. Provide updated response/records to requester;
8. Close our PBI appeal.

Regional Request where regional program withholds information under FOIA Ex. 4:

1. Include Initial Denial language in decision:

The information withheld under Exemption 4 will be sent to the appropriate legal office to issue a final confidentiality determination. The appropriate legal office will contact you to confirm your continued interest in receiving a final confidentiality determination and provide you with a fee estimate, where appropriate. Therefore, you do not need to appeal the information withheld pursuant to Exemption 4. To the extent you would like to appeal any other issue, including any non-Exemption 4 withholding, you may appeal this response... [FOLLOWED BY APPEAL LANGUAGE]

2. Notify the Region FOIA Coordinator to create a PBI tracking number in FOIAonline:

a. Email FOIA_HQ@epa.gov

b. Email Template:

Subject: PBI Case Tracking number for [EPA-RX-20XX-XXXXXX]

Please create a PBI case tracking number for the following initial FOIA request:

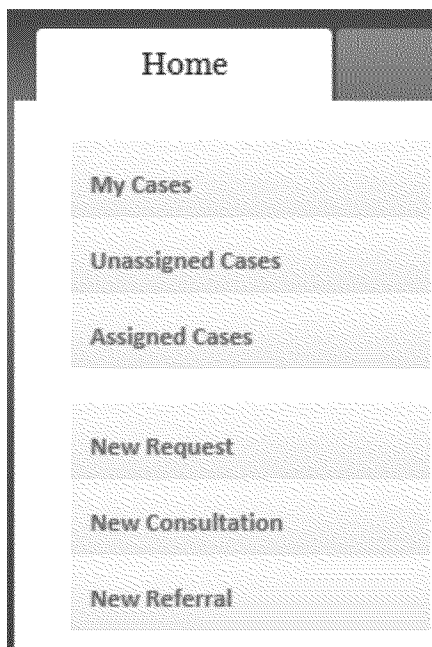
Initial Request Number: [EPA-RX-20XX-XXXXXX]

Requester Name: [NAME]

Requester Address: [ADDRESS]

Requester Email Address: **[EMAIL]**

3. Region FOIA Coordinator creates PBI case and assigns to appropriate ORC contact
 - a. Select “New Request”



- b. Agency and Submitted Date is pre-populated -> Select appropriate Region as Sub-Agency
 - c. Select “PBI” as Request Type

Request Type Selection

* Request Type :

- d. Fill in contact information as provided by program
 - e. Processing Fees information pre-populated

- f. Fill in Description (ORC to provide confidentiality determination for information initially withheld under FOIA Exemption 4 in response to FOIA request no. EPA-RX-20XX-XXXXXX.)

? * **Description :**

155/2000

OGC to provide confidentiality determination for information initially withheld under FOIA Exemption 4 in response to FOIA request no. EPA-HQ-20XX-XXXXXX.

- g. Select Preview -> Submit

Substantiation Request Letter Sample A- Generic CBI Substantiation,
FOIA

Approved OMB 2020-0003
Approval expires 05-31-2020

**Request for Substantiation in Response to a
Request Under the Freedom of Information Act**

By Certified U.S. Mail; Return Receipt Requested

(Name, title, and address of the [designated] representative of the affected business)

Re: Freedom of Information Act (FOIA) Request [INSERT FOIA #]

Dear [Addressee]:

The U.S. Environmental Protection Agency (“EPA” or “Agency”) has received a request under the FOIA for certain records *[if submitted by the business whose information it is: that you submitted to the EPA] [if submitted by an entity other than the business whose information it is: in EPA’s possession]* pertaining to *[a detailed description of the information or specific list of documents that is/are the subject of the advance or final confidentiality determination]*. *[If information has been claimed as CBI: You have claimed (all or part) of this information as confidential business information (“CBI”).] [If no claim has been made: In accordance with applicable EPA regulations, 40 C.F.R. Part 2, Subpart B, the EPA has determined that you might be expected to assert a claim that some or all of [if submitted by the business whose information it is: the information you submitted to the EPA] [if submitted by an entity other than the business whose information it is: this information in EPA’s possession] is confidential business information (“CBI”).]* Under the EPA regulations at 40 C.F.R. Part 2, Subpart B, the FOIA request has been initially denied to afford you an opportunity to provide comments to *[If no claim has been made: claim this information as CBI and]* substantiate your claim(s) as described below.

The purpose of this letter is to notify you that the EPA (*appropriate legal office*) will be making a(n) (*advance or final*) confidentiality determination concerning the information you have claimed as CBI. If you feel that some or all of the information is entitled to confidential treatment, you must make the showings below with specific reference to those portions of the information you consider confidential.

Please be specific by page (including Bates Stamp, if applicable), paragraph, and sentence when identifying and substantiating the information subject to your claim. Where your claim, as originally made or as modified by your response to this letter, does not include all information on a page, please attach a copy of each such page with brackets around the text that

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9/14/2017

you claim to be CBI. Please note that if a page, document, group, or class of documents claimed by you to be CBI contains a significant amount of information which (*appropriate legal office*) determines is not CBI, your CBI claim regarding that page, document, group, or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim and substantiated as such in your response to this letter may be disclosed to the requester without further notice to you.

For each item or class of information that you continue to claim as CBI, please answer the following questions, giving as much detail as possible. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to be entitled to confidential treatment:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, *explain with specificity* why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is

voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.

9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
10. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data or effluent data).

[For contract-related CBI: Enclosed is the EPA Class Determination 1-95 entitled, Confidentiality of Certain Business Information Submitted by Contractors and Prospective Contractors, which addresses the treatment of different types of information related to contracts. You may consider reviewing Class Determination 1-95 as you develop your response.]

[If applicable to another EPA class determination: Enclosed is the EPA Class Determination [class determination number] entitled, [name of the class determination], which addresses the treatment of [description of class determination]. You may consider reviewing Class Determination [#] as you develop your response.]

Please note that *you bear the burden of substantiating your confidentiality and trade secret claim(s)*. Generalized or conclusory statements will be given little or no weight in EPA's determination on the confidentiality of the information you claim to be CBI.

Your comments must be postmarked or hand delivered to this office, or emailed to [email address], by the 15th working day after your receipt of this letter. You may seek an extension of time to submit your comments to this office, but the request must be made before the end of the 15-day period. Except in extraordinary circumstances, no extension will be approved without the consent of the FOIA requester. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

If you wish to claim any information that you provide in your response to this letter to itself be confidential, you must mark the response "**CONFIDENTIAL**" or with a similar designation, and must bracket all text in the response that you so claim. Information so designated will be disclosed by the EPA only to the extent allowed by, and by means of the procedures set forth in, 40 C.F.R. Part 2, Subpart B. If you fail to claim the information provided in your response as confidential, it may be made available to the public without further notice to you.

For Internal Agency Use Only

Should you have any questions concerning this matter, please call me at [*telephone number*].

Sincerely,

[NAME]

[Title]

[Office Name and Address]

[Enclosure]

9/14/2017

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**Substantiation Request Letter Sample B-Generic CBI Substantiation,
Non-FOIA**

Approved OMB 2020-0003
Approval expires 05-31-2020

Request for Substantiation from an Affected Business

By Certified U.S. Mail; Return Receipt Requested

[Name, title, and address of the [designated] representative of the affected business]

Re: _____

Dear *[Addressee]*:

The U.S. Environmental Protection Agency (“EPA” or “Agency”) is seeking to determine the entitlement to confidentiality of *[description of the information that is the subject of the advance or final confidentiality determination]* *[if submitted by the business whose information it is: that you submitted to the EPA]* *[if submitted by an entity other than the business whose information it is: in EPA’s possession.]* *[If information has been claimed as CBI: You have claimed (all or part) of this information as confidential business information (“CBI”).]* *[If no claim has been made: In accordance with applicable EPA regulations, 40 C.F.R. Part 2, Subpart B, the EPA has determined that you might be expected to assert a claim that some or all of [if submitted by the business whose information it is: the information you submitted to the EPA] [if submitted by an entity other than the business whose information it is: this information in EPA’s possession] is confidential business information (“CBI”).]*

The purpose of this letter is to notify you that the EPA *[appropriate legal office]* will be making a(n) *[advance or final]* confidentiality determination concerning the information you have claimed as CBI. If you feel that some or all of the information is entitled to confidential treatment, you must make the showings below with specific reference to those portions of the information you consider confidential.

Please be specific by page (including Bates Stamp, if applicable), paragraph, and sentence when identifying and substantiating the information subject to your claim. Where your claim, as originally made or as modified by your response to this letter, does not include all information on a page, please attach a copy of each such page with brackets around the text that you claim to be CBI. Please note that if a page, document, group or class of documents claimed by you to be CBI contains a significant amount of information which our *[appropriate legal office]* determines is not CBI, your CBI claim regarding that page, document, group, or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim and substantiated as such in your response to this letter may be disclosed without further notice to you.

For each item or class of information that you continue to claim as CBI, please answer the following questions, giving as much detail as possible. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to be entitled to confidential treatment:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, *explain with specificity* why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
10. If you believe any information to be (a) trade secret(s), please so state and explain

the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret(s).

11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data or effluent data).

[For contract-related CBI: Enclosed is the EPA Class Determination 1-95 entitled, Confidentiality of Certain Business Information Submitted by Contractors and Prospective Contractors, which addresses the treatment of different types of information related to contracts.

You may consider reviewing Class Determination 1-95 as you develop your response.]

[If applicable to another EPA class determination: Enclosed is the EPA Class Determination [class determination number] entitled, [name of the class determination], which addresses the treatment of [description of class determination]. You may consider reviewing Class Determination [#] as you develop your response.]

Please note that you bear the burden of substantiating your confidentiality and trade secret claim(s). Generalized or conclusory statements will be given little or no weight in EPA's determination on the confidentiality of the information you claim to be CBI.

Your comments must be postmarked or hand delivered to this office, or emailed to [email address], by the 15th working day after your receipt of this letter. You may seek an extension of time to submit your comments to this office, but the request must be made before the end of the 15-day period. Except in extraordinary circumstances, no extension will be approved. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

If you wish to claim any information that you provide in your response to this letter to itself be confidential, you must mark the response "CONFIDENTIAL" or with a similar designation, and must bracket all text in the response that you so claim. Information so designated will be disclosed by the EPA only to the extent allowed by, and by means of the procedures set forth in, 40 C.F.R. Part 2, Subpart B. If you fail to claim the information provided in your response as confidential, it may be made available to the public without further notice to you.

Should you have any questions concerning this matter, please call me at [telephone number].

For Internal Agency Use Only

Sincerely,

[NAME]

[TITLE]

[Office Name and Address]

[Enclosure]

9/14/2017

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CBI Substantiation Request Letter Sample C- FIFRA, FOIA

OMB 2020-0003
Expires: 05-31-2020
Inert Ingredients

Request for Substantiation from an Affected Business

By Certified U.S. Mail; Return Receipt Requested

[Name, title, and address of the [designated] representative of the affected business]

RE: Confidential Business Information Determination

Dear *[Addressee]*:

The U.S. Environmental Protection Agency (“EPA”) Office of Pesticide Programs has received a request under the FOIA for certain records *[if submitted by the business whose information it is: that you submitted to the EPA] [if submitted by an entity other than the business whose information it is: in EPA’s possession]* pertaining to *[a detailed description of the information or specific list of documents that is/are the subject of the advance or final confidentiality determination]*. *[If information has been claimed as CBI: You have claimed (all or part) of this information as confidential business information (“CBI”).] [If no claim has been made: In accordance with applicable EPA regulations, 40 C.F.R. Part 2, Subpart B, the EPA has determined that you might be expected to assert a claim that some or all of [if submitted by the business whose information it is: the information you submitted to the EPA] [if submitted by an entity other than the business whose information it is: this information in EPA’s possession] is confidential business information (“CBI”).]* Under the EPA regulations at 40 C.F.R. Part 2, Subpart B, the FOIA request has been initially denied to afford you an opportunity to provide comments to *[If no claim has been made: claim this information as CBI and]* substantiate your claim(s) as described below.

The purpose of this letter is to notify you that the EPA Office of General Counsel will be making a(n) *[advance or final]* confidentiality determination concerning the information you have claimed as CBI. If you feel that some or all of the information is entitled to confidential treatment, you must make the showings below with specific reference to those portions of the information you consider confidential.

Please be specific by page (including Bates Stamp, if applicable), paragraph, and sentence when identifying and substantiating the information subject to your claim. Where your claim, as originally made or as modified by your response to this letter, does not include all information on a page, please attach a copy of each such page with brackets around the text that

you claim to be CBI. Please note that if a page, document, group, or class of documents claimed by you to be CBI contains a significant amount of information which the Office of General Counsel determines is not CBI, your CBI claim regarding that page, document, group, or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim and substantiated as such in your response to this letter may be disclosed to the requester without further notice to you.

1. For what period of time do you request that the information be maintained as confidential? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?
4. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
5. Is the information contained in any publicly available material such as promotional publications, annual reports, articles, etc.? Is there any means by which a member of the public could obtain access to the information?
6. For each category of information claimed as confidential, discuss with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
7. Do you assert that the information is "voluntarily submitted" as defined at 40 C.F.R. § 2.201(i)? If so, explain why and how disclosure would tend to lessen EPA's ability to obtain similar information in the future.
8. Any other issue you deem relevant.

Please note that you bear the burden of substantiating your confidentiality and trade secret claim(s) pursuant to 40 CFR § 2.208(e). Generalize or conclusory allegations will be given little or no weight in EPA's determination on the confidentiality of information you claim to be CBI.

If you wish to claim any information that you provide in your response to this letter to itself be confidential, you must mark the response "**CONFIDENTIAL**" or with a similar

designation, and must bracket all text in the response that you so claim. Information so designated will be disclosed by the EPA only to the extent allowed by, and by means of the procedures set forth in, 40 C.F.R. Part 2, Subpart B. If you fail to claim the information provided in your response as confidential, it may be made available to the public without further notice to you.

Your reply can be mailed to the following address:

Or your reply can be delivered to the following address:

Your comments must be postmarked or hand-delivered by the 15th working day after your receipt of this letter. If you intend to submit timely comments, please notify by phone at [TELEPHONE NUMBER], by email at or by mail at the address above. Failure to submit timely comments will be regarded as a waiver of your confidentiality claim and EPA will release the information. You may request an extension of the 15-day deadline. Except in extraordinary circumstances, no extension will be granted without the permission of the requestor.

Should you have any questions in this matter, please contact [CONTACT NAME].

Sincerely,

[NAME]
[TITLE]

Enclosures

CBI Substantiation Request Letter Sample D- FIFRA, Non-FOIA

OMB 2020-0003
Expires 05-31-2020

Request for Substantiation from an Affected Business

By Certified U.S. Mail; Return Receipt Requested

[Name, title, and address of the [designated] representative of the affected business]

Re: Freedom of Information Act Request [INSERT NUMBER]

Dear *[Addressee]*:

The U.S. Environmental Protection Agency (“EPA”) Office of Pesticide Programs is seeking to determine the entitlement to confidentiality of *[description of the information that is the subject of the advance or final confidentiality determination]* *[if submitted by the business whose information it is: that you submitted to the EPA]* *[if submitted by an entity other than the business whose information it is: in EPA’s possession.]* *[If information has been claimed as CBI: You have claimed (all or part) of this information as confidential business information (“CBI”).]* *[If no claim has been made: In accordance with applicable EPA regulations, 40 C.F.R. Part 2, Subpart B, the EPA has determined that you might be expected to assert a claim that some or all of [if submitted by the business whose information it is: the information you submitted to the EPA] [if submitted by an entity other than the business whose information it is: this information in EPA’s possession] is confidential business information (“CBI”).]*

The purpose of this letter is to notify you that the EPA Office of General Counsel will be making a(n) *[advance or final]* confidentiality determination concerning the information you have claimed as CBI. If you feel that some or all of the information is entitled to confidential treatment, you must make the showings below with specific reference to those portions of the information you consider confidential.

Please be specific by page (including Bates Stamp, if applicable), paragraph, and sentence when identifying and substantiating the information subject to your claim. Where your claim, as originally made or as modified by your response to this letter, does not include all information on a page, please attach a copy of each such page with brackets around the text that you claim to be CBI. Please note that if a page, document, group, or class of documents claimed by you to be CBI contains a significant amount of information which the Office of General Counsel determines is not CBI, your CBI claim regarding that page, document, group, or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim and substantiated as such in your response to this letter may be disclosed to

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9/14/2017

the requester without further notice to you.

Questions 1-7 must be answered with respect to any confidentiality claims pertaining to the enclosed product chemistry information.

1. What value can your competitors derive from knowing the identity, percent by weight, certified limits, or parent process of each impurity? Is this impurity unique to your manufacturing process? Why would your competitors find this impurity preferable over whatever impurity results from their equivalent process?
2. Does published analytical methodology exist that could identify and quantify this impurity? If so, why do you believe that your competitors have not already performed such analysis?
3. What value can your competitors derive from knowing the description of materials used to produce the product, the description of the production process, or the preliminary production analysis? Why would your competitors find these processes preferable over their equivalent processes?

Questions 4-7 must be answered with respect to any confidentiality claims pertaining to the inert ingredients. Each question must be answered separately with respect to each inert ingredient:

4. What is the value that this inert ingredient brings to the product formulation? What characteristics of this ingredient are unique such that competitors might prefer it over whatever ingredients perform the equivalent function in their formulations? Is the use of this ingredient limited to your product, or does it have broader applications?
5. Why is it unlikely that your competitors have not already discovered the value of this ingredient? Are you aware of the use of this ingredient as an inert by your competitors?
6. To your knowledge, has the use of this inert ingredient in a pesticide been disclosed in a patent? If so, how would disclosure of the identity of the ingredient assist your competitors beyond what is already available through a patent?
7. Can the identity of this inert ingredient be determined by product sample analysis? If so, why do you believe that your competitors have not already performed such analysis?

Question 8 must be answered with respect to any confidentiality claims pertaining to the enclosed records:

8. For each category of information claimed as confidential, discuss with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?

Questions 9 through 15 must be answered for each type of information that you claimed as

confidential:

9. For what period of time do you request that the information be maintained as confidential? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
10. Information submitted to EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question number 9?
11. What measures have you taken to protect the information? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose it further? If so, why should it still be considered confidential?
12. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
13. Is the presence of this information disclosed in any publicly available material such as Material Safety Data Sheets, promotional publications, annual reports, articles, etc.? Is there any means by which a member of the public could obtain access to the information?
14. Do you assert that the information is "voluntarily submitted" as defined at 40 CFR § 2.201(i)? If so, explain why, and how disclosure would tend to lessen EPA's ability to obtain similar information in the future.
15. Any other issue you deem relevant.

Please note that you bear the burden of substantiating your confidentiality and trade secret claim(s) pursuant to 40 CFR § 2.208(e). Generalize or conclusory allegations will be given little or no weight in EPA's determination on the confidentiality of information you claim to be CBI.

If you wish to claim any information that you provide in your response to this letter to itself be confidential, you must mark the response "**CONFIDENTIAL**" or with a similar designation, and must bracket all text in the response that you so claim. Information so designated will be disclosed by the EPA only to the extent allowed by, and by means of the procedures set forth in, 40 C.F.R. Part 2, Subpart B. If you fail to claim the information provided in your response as confidential, it may be made available to the public without further notice to you.

Be advised that information described by Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA") section 10(d)(1)(A), (B), and (C) is not automatically entitled to confidential treatment. Disclosure of such information would only be prohibited, by FIFRA section (b), if the information is eligible for confidential treatment as described by 40 CFR 2.208.

Your reply can be mailed to the following address:

Or your reply can be delivered to my attention at the following address:

Your comments must be postmarked or hand-delivered by the 15th working day after your receipt of this letter. If you intend to submit timely comments, please notify by phone: [TELEPHONE], by email: [EMAIL ADDRESS], or by mail at the address above. Failure to submit timely comments will be regarded as a waiver of your confidentiality claim and EPA will release the information. You may request an extension of the 15-day deadline. Except in extraordinary circumstances, no extension will be granted without the permission of the requester.

Should you have any questions in this matter, please contact [CONTACT PERSON].

Sincerely,

[NAME]
[TITLE]

Enclosures

CBI Substantiation Request Letter Sample E- TSCA

OMB 2020-0003
Approval expires 05-31-2020

By Certified U.S. Mail; Return Receipt Requested

MAY CONTAIN CONFIDENTIAL BUSINESS INFORMATION

[Technical Contact Name, title, Company, and Address]

Re: Notice of Review and Request for Substantiation of Confidential Business Information
Claim(s)

Document Type:

Document Identifying Number:

Date of Submission:

Type of claim(s) to be reviewed: ☐ specific chemical identity
 ☐ all other CBI claims

Dear *[Addressee]*:

Under the Toxic Substance Control Act (TSCA) most confidential business information (CBI) claims for chemical identity and at least 25% of other CBI claims are subject to a review and final determination. TSCA section 14(g). 15 U.S.C. § 2613(g).

This letter is to notify you that the U.S. Environmental Protection Agency (EPA) Office of General Counsel will be making a final confidentiality determination concerning information you have claimed as CBI, as identified above. All non-exempt CBI claims must be substantiated.

If you feel that some or all of the information checked above is entitled to confidential treatment, you must substantiate as described below with specific reference to those portions of the information you consider confidential.

Note that TSCA section 14(c)(2) generally exempts certain information types from the requirement to substantiate. 15 U.S.C. § 2613(c)(2). *See* EPA webpage [INSERT WEBPAGE] for more guidance on information exempt from substantiation. To the extent that you believe the information that you have claimed as CBI is one of these exempt information types, you may make this assertion in your response by identifying the specific section 14(c)(2) exemption, in lieu of substantiating the CBI claim for that information. If the Agency disagrees with this assertion, you may be asked to provide additional information to support your claim.

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9/14/2017

Substantiating a CBI Claim.

There are two different sets of substantiation questions for CBI claims: (I) questions for all CBI claims in the submission; and (II) questions for chemical identity CBI claims. Please use the appropriate question set. In some instances, your TSCA submission may contain both types of CBI claims or a CBI claim may require completing both sets of substantiation questions. For example, if you assert a CBI claim to protect a chemical substance's identity, then you must answer both question sets. EPA has identified the appropriate question set(s) via the checkboxes at the top of this letter. In some instances, for example TSCA section 8(a) Chemical Data Reporting (CDR) Rule submissions, you may have already provided up-front substantiations for some of the CBI claims. If you have already substantiated your CBI claim at the time of submission, please refer to or preferably physically attach your substantiation to your response to this letter.

Note also that the providing of incorrect information in this substantiation request may be a failure to comply with TSCA, specifically 15 U.S.C. § 2614.

I. REQUIRED FOR ALL CBI CLAIMS.

If you are asserting ANY information in the submission as CBI, please answer the following questions.

In supporting your CBI claim(s), please be specific by page, paragraph, sentence, or by data element when identifying and substantiating the information subject to your claim. Where your claim, as originally made or as modified by your response to this letter, does not include all information on a page, please attach a copy of each such page with brackets around the text that you claim to be CBI.

In some cases, it may be appropriate to group the information into a class of information rather than responding to each item claimed as CBI. *See* EPA webpage [INSERT WEBPAGE] for suggested approaches to providing substantiations of materials grouped. For any information that is not specifically identified as subject to a confidentiality claim and substantiated as such in your response to this letter, it shall be determined that you have waived your CBI claim, pursuant to 40 C.F.R. § 2.205(d).

For each item or class of information that you continue to claim as CBI, please answer the following questions, giving as much detail as possible. Your substantiation response to these questions will be used by the EPA to determine whether the information has been shown to be entitled to confidential treatment:

- A. Do you believe that any of the information claimed as CBI is exempt from substantiation pursuant to TSCA section 14(c)(2)¹? Yes/No.

¹ TSCA Section 14(c)(2) states:

(2) Information generally not subject to substantiation requirements

If you answered yes, please identify the information, provide the specific exemption and answer no further questions related to that information.

If you answered no, please respond to the questions below.

- B. Will disclosure of the information likely result in substantial harm to your business competitive position? Yes/No.

If you answered yes, please describe with specificity the substantial harmful effects that would result to your competitive position if the CBI information is made available to the public. In your answer, explain the causal relationship between disclosure and any resulting substantial harmful effects. Consider in your answer such constraints as capital and marketing cost, specialized technical expertise, or unusual processes and your competitor's access to your customers.

- C. To the extent you have disclosed information to others (both internally and externally), what precautions has your business taken? Please identify any measures or internal controls your business has taken to protect the information claimed as confidential.

1. Non-disclosure agreement required prior to access. Yes/No
2. Access is limited to individuals with a need-to-know. Yes/No
3. Information is physically secured (e.g. locked in room or cabinet) or electronically secured (encrypted, password protected, etc.). Yes/No
4. Other internal control measure(s). If so, please explain.

- D. Does the information claimed as confidential appear in any public documents, including (but not limited to) safety data sheet, advertising or promotional material, professional or trade publication, or any other media or publications available to the general public? Yes/No.

Subject to subsection (f), the following information shall not be subject to substantiation requirements under paragraph (3):

(A) Specific information describing the processes used in manufacture or processing of a chemical substance, mixture, or article.

(B) Marketing and sales information.

(C) Information identifying a supplier or customer.

(D) In the case of a mixture, details of the full composition of the mixture and the respective percentages of constituents.

(E) Specific information regarding the use, function, or application of a chemical substance or mixture in a process, mixture, or article.

(F) Specific production or import volumes of the manufacturer or processor.

(G) Prior to the date on which a chemical substance is first offered for commercial distribution, the specific chemical identity of the chemical substance, including the chemical name, molecular formula, Chemical Abstracts Service number, and other information that would identify the specific chemical substance, if the specific chemical identity was claimed as confidential at the time it was submitted in a notice under section 2604 of this title.

If you answered yes, please explain why the information should nonetheless be treated as confidential.

- E. Does the information claimed to be CBI contain (a) trade secret(s)² ? Yes/No

If yes, please explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret(s).

- F. If you assert a claim of confidentiality that is less than 10 years (see TSCA section 14(e)(1)(B)), then please indicate the number of years (between 1-10 years) or specific date of which the claim is withdrawn.³

- G. Has EPA, another federal agency, or court made any confidentiality determination regarding information associated with this substance? Yes/No.

If yes, please explain the outcome of that determination and provide EPA with a copy of the previous confidentiality determination or any information that will assist the Agency in identifying the prior determination.

II. REQUIRED FOR ONLY CHEMICAL IDENTITY CBI CLAIMS.

If you are claiming a specific chemical identity as CBI, please answer the additional following questions. If you are not substantiating a chemical identity CBI claim, then you do not need to respond to the questions below.

- A. Is the chemical substance on the confidential portion of the TSCA Inventory? Yes/No.

- B. Commerce:

1. Has the chemical substance (or mixture) been offered for commercial distribution? Yes/No.
2. Is the chemical substance known to be in U.S. commerce? Yes/No.

If you answered yes, please explain why the information should nonetheless be treated as confidential.

- C. Disclosure of the specific chemical name would release:

1. Confidential process information. Yes/No.
2. Confidential portion of a mixture information. Yes/No.

² “Trade secret” is defined as “a secret, commercially valuable plan, formula, process, or device that is used for the making, preparing, compounding, or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort.” Pub. Citizen Health Research Grp. v. FDA, 704 F.2d 1280, 1288 (D.C. Cir. 1983).

³ Information with withdrawn CBI claims will be made available to the public without further notice.

If you answered yes to either question, please explain

Asserting a CBI claim in your substantiation response.

Businesses may claim their substantiation response as CBI. Information claimed as confidential should be clearly marked by bracketing, circling, or underlining. All pages containing such information must also be stamped "CONFIDENTIAL BUSINESS INFORMATION" or with similar designation in order to assert a confidentiality claim. Care should be taken to ensure that these markings do not obscure the text.

If you claim your substantiation response as CBI, you must include the following statement in the submission.

I hereby certify to the best of my knowledge and belief that all information entered on this form is complete and accurate.

I further certify that, pursuant to 15 U.S.C. § 2613(c), for all claims for confidentiality made with this submission, all information submitted to substantiate such claims is true and correct, and that it is true and correct that

- (i) My company has taken reasonable measures to protect the confidentiality of the information;
- (ii) I have determined that the information is not required to be disclosed or otherwise made available to the public under any other Federal law;
- (iii) I have a reasonable basis to conclude that disclosure of the information is likely to cause substantial harm to the competitive position of my company; and
- (iv) I have a reasonable basis to believe that the information is not readily discoverable through reverse engineering.

Any knowing and willful misrepresentation is subject to criminal penalty pursuant to 18 U.S.C. § 1001.

Timely Responses and Postal Requirements

Your substantiation response must be postmarked or hand delivered to this office **by the 15th working day after your receipt of this letter**. While it is anticipated that there will be a means for sending these to the Agency electronically in the future, at this point substantiations should be sent via US Mail or courier.

Filings should be directed to the below address.

TSCA Confidential Business Information Center (7407M)
WJC East; Room 6428; Attn: TSCA CBI Substantiations
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460-0001

Courier Deliveries:

U.S. EPA
Office of Pollution Prevention and Toxics
Confidential Business Information Center (CBIC)
Attn: TSCA CBI Substantiations
1201 Constitution Avenue, NW
WJC East; Room 6428
Washington, DC 20004-3302
(202) 564-8930

You may seek an extension of time to submit your substantiation response to this office, but the request must be made before the end of the 15-day period. Requests for an extension may be directed to Ms. Quoc Nguyen, Office of General Counsel, Nguyen.Quoc@epa.gov.

Failure to timely submit your substantiation response will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

Should you have any questions concerning this matter, please contact Mr. Scott Sherlock at (202) 564-8257 or Sherlock.Scott@epa.gov; or Ms. Jessica Barkas at (202) 250-8880 or Barkas.Jessica@epa.gov.

Sincerely,

[NAME]
[TITLE]
[Office Name and Address]

OGC Relativity Guidance

Use this guidance to familiarize yourself with the Relativity platform, including how to redact documents. Remember that before you can use Relativity for the first time, you need to contact EZ-tech (or technical support for your office) to install the Relativity Web Viewer Plugin.

Contents

ONLINE RESOURCES.....	1
SIGNING IN, FINDING YOUR WORKSPACE.....	2
BATCHES.....	2
INSTALLING THE WEB VIEWER.....	4
OPENING AND VIEWING A DOCUMENT.....	4
SORTING AND FILTERING DOCUMENTS.....	7
CODING A DOCUMENT.....	8
REDACTING.....	10
COPY FROM PREVIOUS.....	11
REVIEWING FAMILY MEMBERS.....	12
EMAILING A DOCUMENT TO YOUR CASE MANAGER.....	13
GETTING DOCUMENTS OUT OF RELATIVITY.....	13

ONLINE RESOURCES

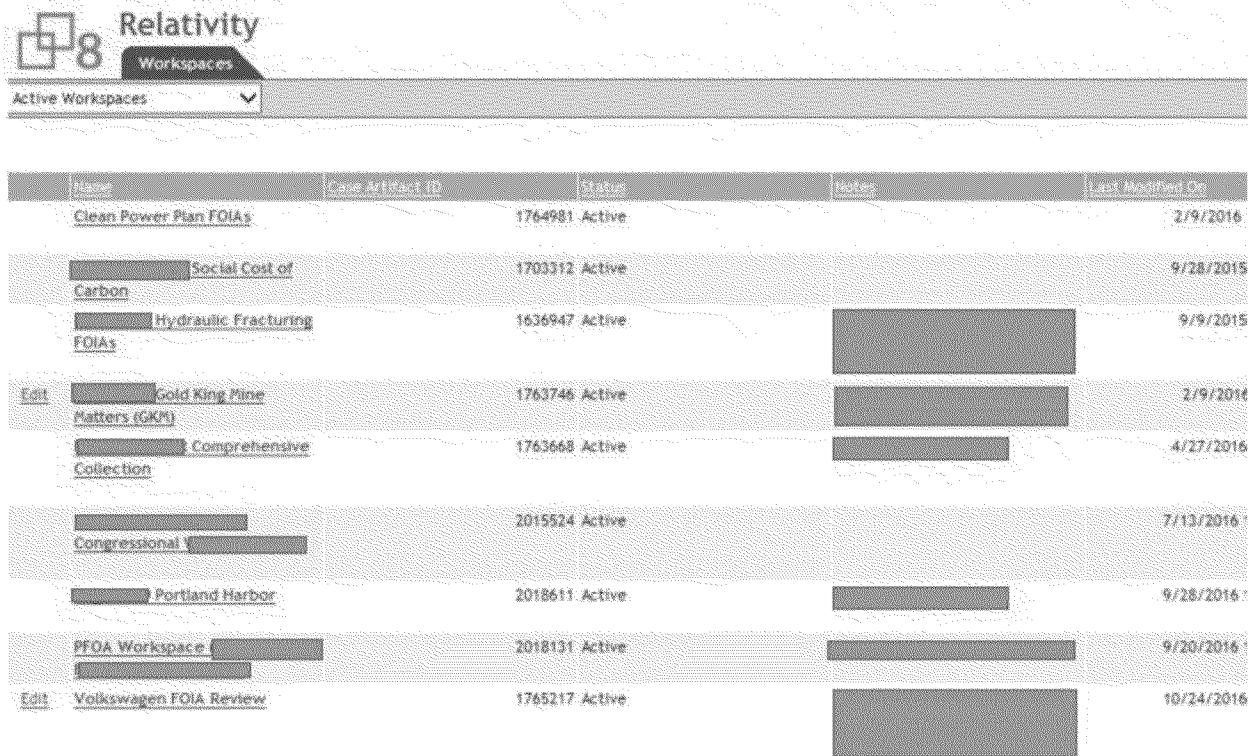
EPA uses Relativity version 8.2. There are a number of video trainings and other resources available here: <https://www.kcura.com/relativity/ediscovery-resources/training/>. Below are some tutorials that you may find useful.

1. Getting Started (3:41): <https://www.kcura.com/relativity/ediscovery-resources/training/on-demand/getting-started/>
2. Redactions and Annotations (6:46): <https://www.kcura.com/relativity/ediscovery-resources/training/on-demand/adding-redactions-and-annotations-8-2/>
3. Coding and Tagging Documents (5:15): <https://www.kcura.com/relativity/ediscovery-resources/training/on-demand/coding-and-tagging-documents/>

4. Reviewer Training (36:33): <https://www.kcure.com/relativity/ediscovery-resources/training/on-demand/reviewer-training/>

SIGNING IN, FINDING YOUR WORKSPACE

If you are a first-time user, your sign in credentials will be emailed to you along with a link to EPA's Relativity viewer. It is a good idea to save or bookmark this link. If you have password issues or cannot find the link, email your case manager. Once you sign in, you will see the workspace list. Click on the name of your case to enter your workspace.



The screenshot shows the Relativity Workspaces interface. At the top, there is a header with the Relativity logo and a 'Workspaces' tab. Below the header, there is a table listing active workspaces. The table has columns for Name, Case Artifact ID, Status, Notes, and Last Modified On. The workspaces listed are:

Name	Case Artifact ID	Status	Notes	Last Modified On
Clean Power Plan FOIAs	1764981	Active		2/9/2016
Social Cost of Carbon	1703312	Active		9/28/2015
Hydraulic Fracturing FOIAs	1636947	Active		9/9/2015
Gold King Mine Matters (GKM)	1763746	Active		2/9/2016
Comprehensive Collection	1763668	Active		4/27/2016
Congressional	2015524	Active		7/13/2016
Portland Harbor	2018611	Active		9/28/2016
PFOA Workspace	2018131	Active		9/20/2016
Volkswagen FOIA Review	1765217	Active		10/24/2016

(sample screenshot of a Workspace List, some information removed)

BATCHES

Documents are organized into groups called batches. To review documents, you must have a batch assigned to you. No one else will work on documents in your batch while they are assigned to you. To check out a batch, follow the instructions below. If you are done working, your batch will remain assigned to you unless you check it back in, even if you sign out of Relativity and sign back in later.

1. At the top of your screen, you will see tabs. Every database is different, but you will likely have a *Documents* tab and a *Review Batches* tab. Click the *Review Batches* tab.



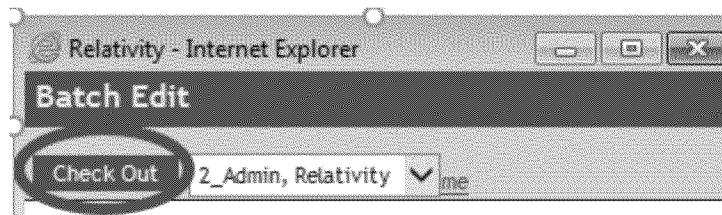
9/14/2017

lxxi

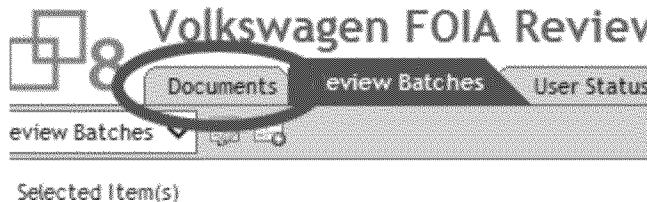
2. This will bring you to a list of batches. There will be several fields of information displayed in the columns.
 - a. The *Batch Status* column will tell you whether a batch has been completed, is in progress, or if the field is blank, the batch is open and may be checked out.
 - b. If a batch is assigned to a reviewer, their name will be displayed in the *Assigned To* column.
 - c. The columns should display how many documents have been reviewed in a batch as well as the total size of the batch.
3. To check a batch out, look to the left of the screen. Next to the batch names, there will be a blue hyperlink *Edit* button. Once you have selected your batch, click this edit button to begin the checkout process.

	<input type="checkbox"/>	Batch Set	Batch	
1	<input type="checkbox"/>	Edit	OAR July-Sept Morrissey	OAR-M00001
2	<input checked="" type="checkbox"/>	Edit	OAR July-Sept Morrissey	OAR-M00002
3	<input type="checkbox"/>	Edit	OAR July-Sept Morrissey	OAR-M00003
4	<input type="checkbox"/>	Edit	OAR July-Sept Morrissey	OAR-M00004

4. Click the “Check Out” button to check the batch out to yourself.



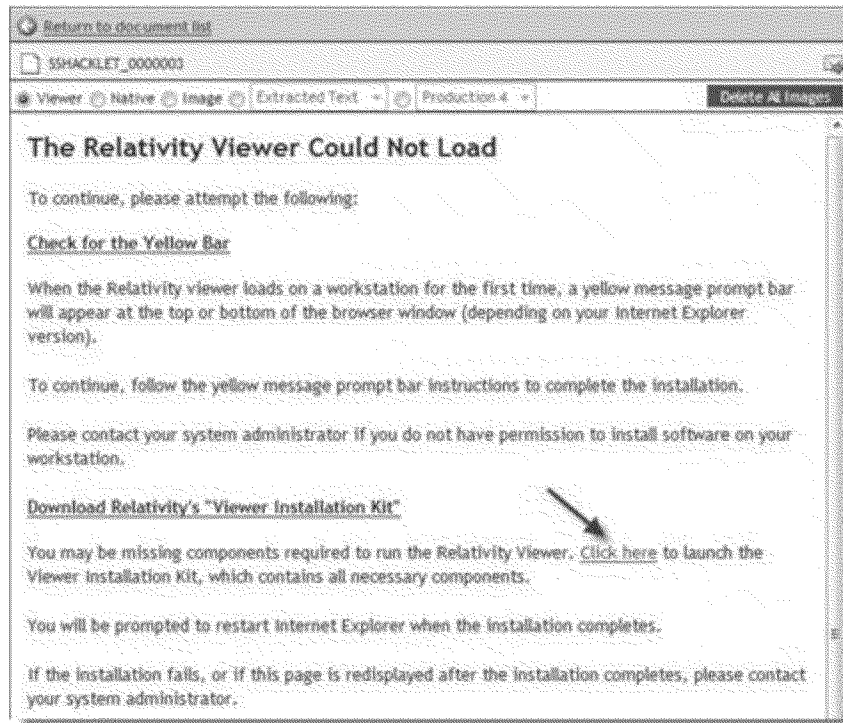
5. Once a batch is checked out, you will notice that it is assigned to you in the *Assigned To* column.
6. To view the documents in the batch you have checked out, you must look again to the tabs at the upper left of your screen. Click back to the documents tab to view the documents.



7. Follow the same steps to check a batch back in. (Go to the batches tab, find your batch, press the *Edit* button). You may check the batch back in as *Pending* if it is not complete. But if all documents have been reviewed, check it back in as *Completed*.



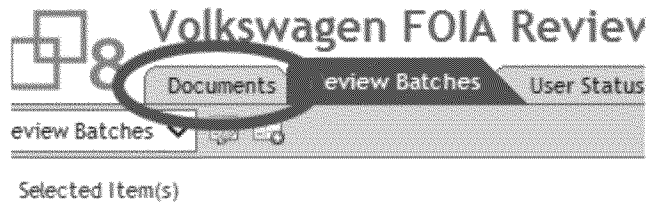
INSTALLING THE WEB VIEWER



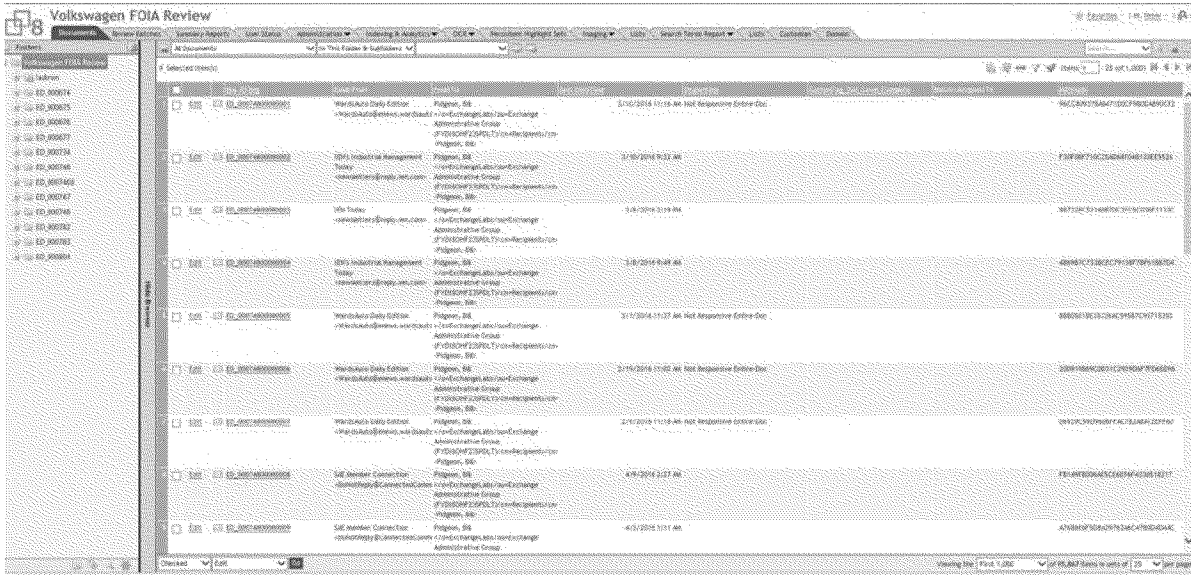
If this is the first time you are using Relativity on your machine, you will likely need to install a plugin before being able to view documents. If you are prompted with the below error or a similar message when you try to open a document, then you will need someone with administrator rights to download the Relativity Viewer and install it. Call your technical support line and ask for assistance installing the Relativity Viewer plugin. Your technician will be able to remotely download and install the plugin, usually in a matter of minutes. This should only need to be done once.

OPENING AND VIEWING A DOCUMENT

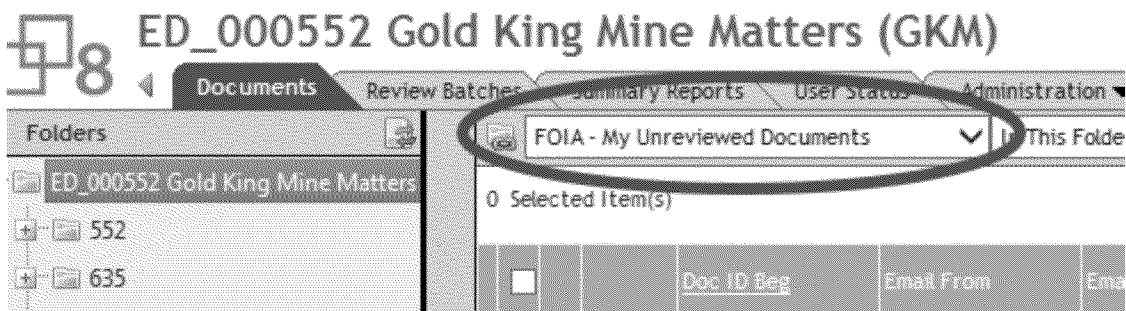
1. Make sure you are in the *Documents* tab.



2. Your screen should look something like this:



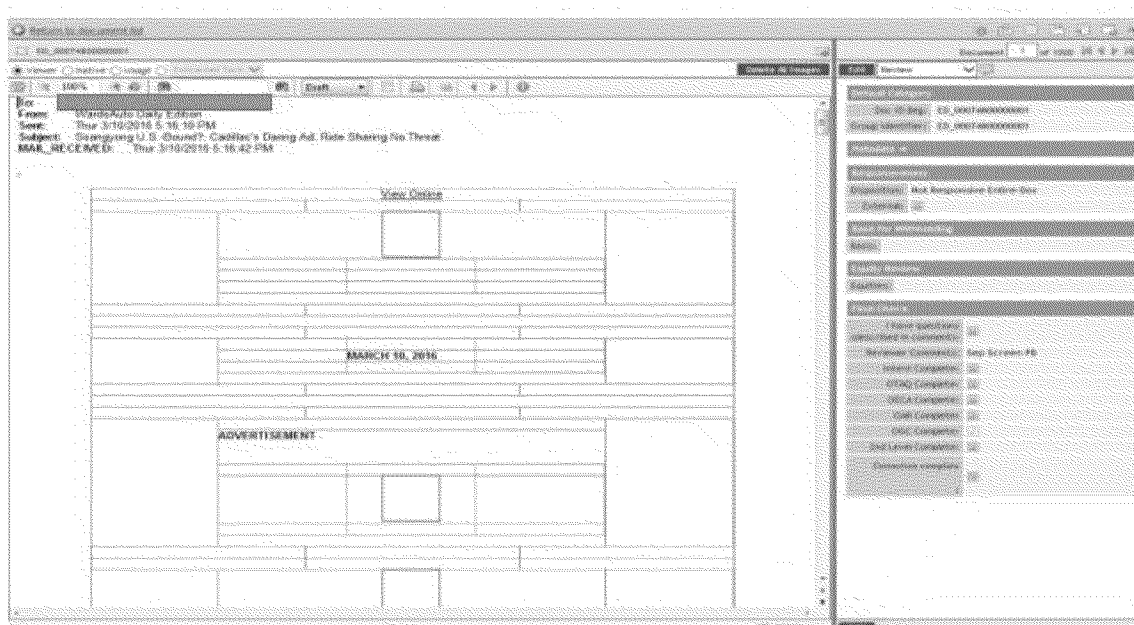
3. Look at the drop down menu towards the upper left of your screen. It will likely say “All Documents” or “unreviewed documents” or have similar choices. Your case manager should give you guidance as to what view to use, or they may limit your access to a single useful view.



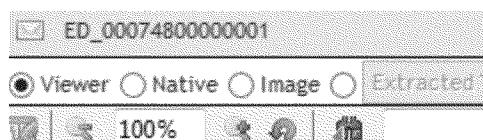
4. You will see a list of documents with columns of information. One of the leftmost columns will contain links to the documents themselves. Click the blue hyperlink Doc ID number of the document you would like to open.

	Doc ID Req	Custodian	Email From	Email To	Sent Date/Time	Redactions Needed	EPA Review
1	<input type="checkbox"/> Edit ED_000748000000001		WardsAuto Daily Edition <WardsAuto@enews.wardsauto.com>	</o=ExchangeLabs, Administrative Group (FYDIBOHF23SPOLT)>	3/10/2016 11:16 AM		
2	<input type="checkbox"/> Edit ED_000748000000002		IEH's Industrial Management Today <newsletter@reply.ien.com>	</o=ExchangeLabs, Administrative Group (FYDIBOHF23SPOLT)>	3/10/2016 9:32 AM		
3	<input type="checkbox"/> Edit ED_000748000000003		IEH Today <newsletter@reply.ien.com>	</o=ExchangeLabs, Administrative Group (FYDIBOHF23SPOLT)>	3/8/2016 2:19 PM		

5. Opening a document will take you to the reviewer interface, it should look like this:



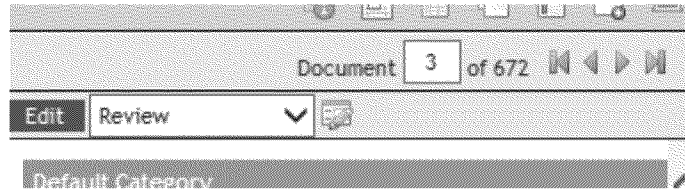
-
-
-
-
-
6. You should have access to three views depending on the type of document you are looking at and how it has been processed. To change to a different view, click the radial button.



- a. **Viewer Mode:** Default view which contains the rendered version of the native file. This view will display the entire content of the document in one continuous view. If persistent highlighting is used, certain terms may be

highlighted to aid in your review.

- b. Native Mode: Clicking on the native viewer will open the file in a separate window in its native form. If you are looking at an email, it will open the file in outlook, if you are looking at a spreadsheet, excel will open. This can be useful for certain file types, but should generally be avoided.
 - c. Image Mode: This view will only be available if the document set you are working with has been processed to be “imaged.” If you need to use image mode but your documents are not imaged, talk to your case manager. Image mode shows you the document as it will be produced to the requester. The document may contain several pages that you will need to click through. This is the view you will use to make redactions.
7. To move on to the next document in your list automatically, or back to a previous document, use the navigation arrows in the upper right corner of your screen.



8. To return to your document list from a document view, look to the upper left of your screen and select *Return to document list*.



SORTING AND FILTERING DOCUMENTS

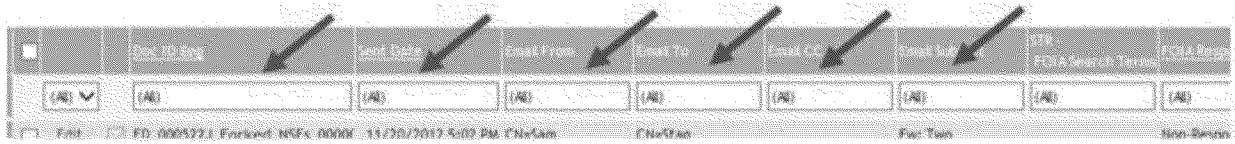
1. Your document list should have several columns. If a column title is underlined, like *Sent Date* is in the image below, you can click on the title and your documents will be sorted by that column.

<input type="checkbox"/>	<u>Doc ID Beg</u>	<u>Sent Date</u>	Email From	Email To	Email CC	Email Subject	STR - FOIA Search Terms	FOIA Responsive
<input type="checkbox"/>	Edit	ED_000522J_Forked_NSFs_0000	11/20/2012 5:02 PM	CN=Sam	CN=Stan	Fw: Two		Non-Responsive - Entire Doc

2. Clicking on the filter icon above your document list will allow you to filter the documents you are viewing. For example, you could limit your view to only documents from a particular sender.



- Text boxes will appear below the headings of each column. Type the terms you want to use to filter in the text box of the relevant column.

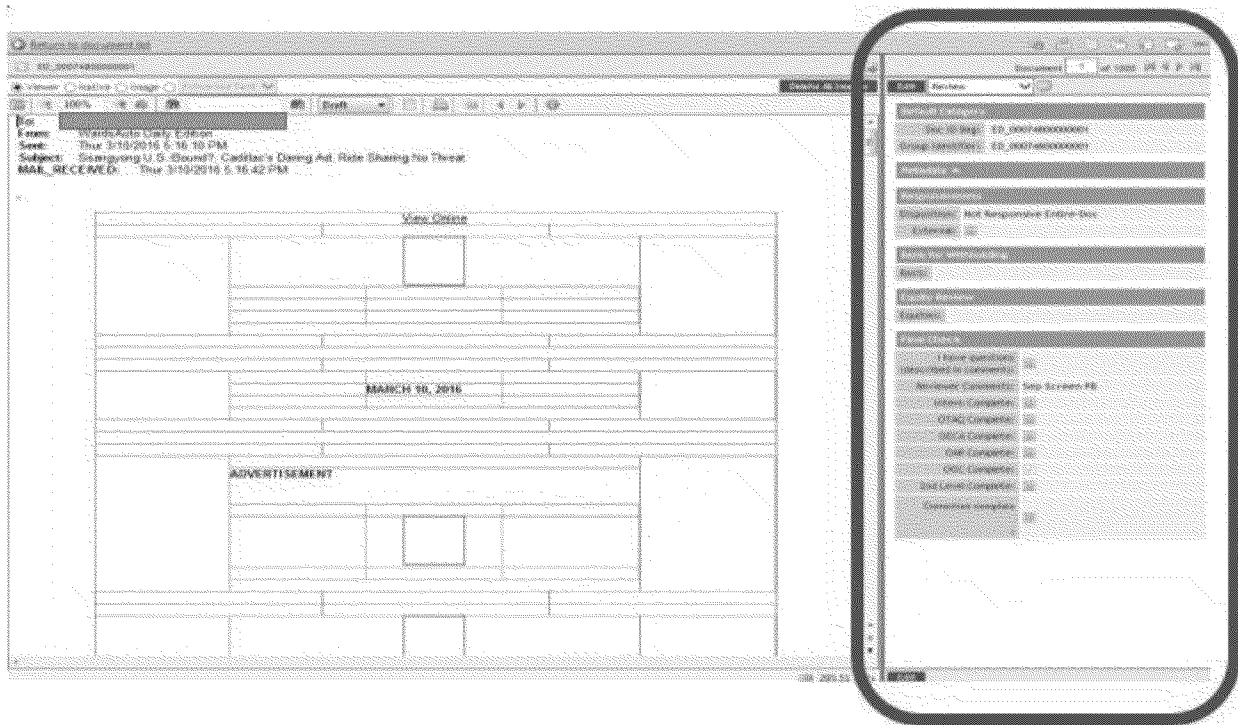


- To clear your filters, click the sweep icon next to the filter icon.

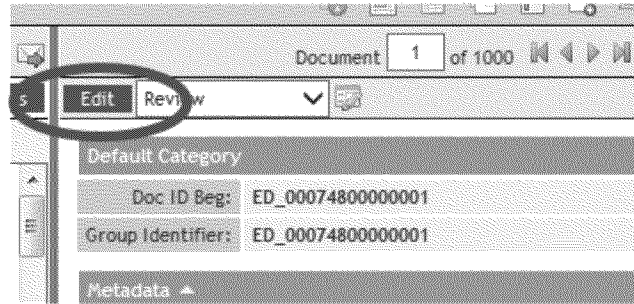


CODING A DOCUMENT

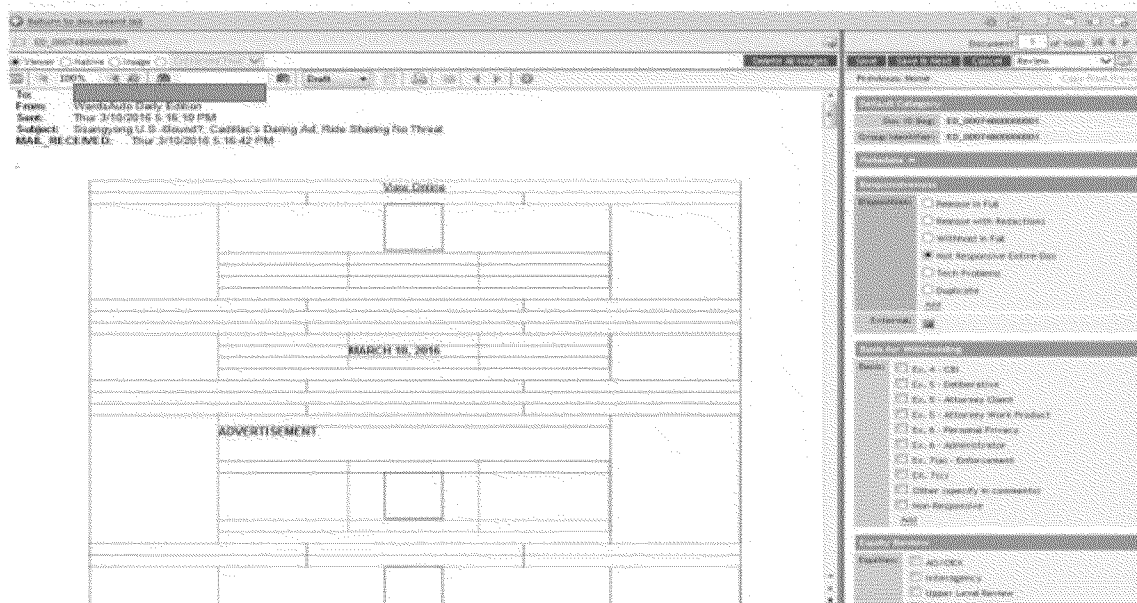
“Coding” is a term we use to describe the process of adding information to the documents that you review. To do this, when viewing a document, use the coding pane on the right side of your reviewer interface.



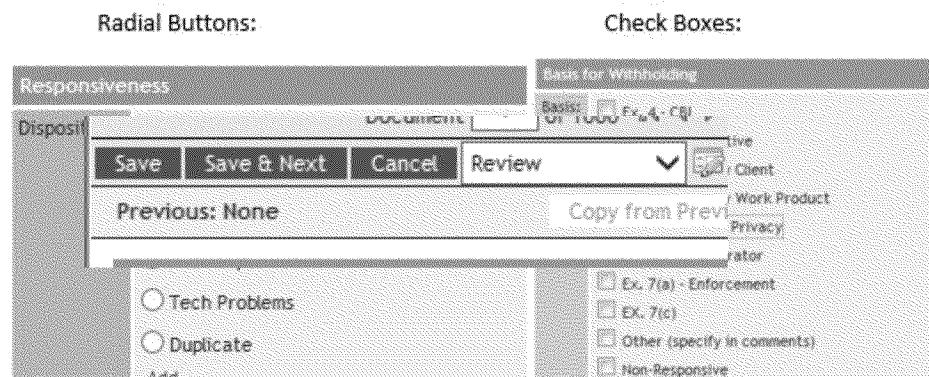
1. To begin coding, you must select the edit button in the upper left of your coding pane.



2. This will bring your coding pane to life and allow you to make edits. Your reviewer interface should now look like this:



3. Follow the instructions provided by your case manager for coding your documents. You will find that some fields of information use radial buttons that only allow you to make one choice, and other fields use check boxes which allow you to select more than one item.



After you have finished coding a document, remember to save. If you plan to move on to the next document in your set, clicking “Save and Next” will save and take you there automatically. The save buttons are located above and below your coding pane.

5. When you move onto another document, your coding pane will remain in edit mode, and you should be able to begin coding right away.

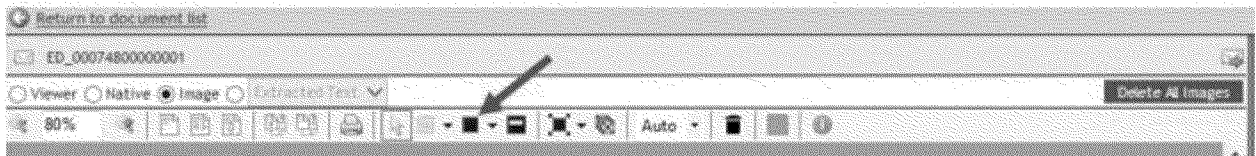
REDACTING

In general, when a FOIA exemption applies to part of a document, we have an obligation to release reasonably segregable material within that document. This is accomplished by redacting the exempt part of the document. You should redact as needed according to the instructions below. Redactions are automatically saved.

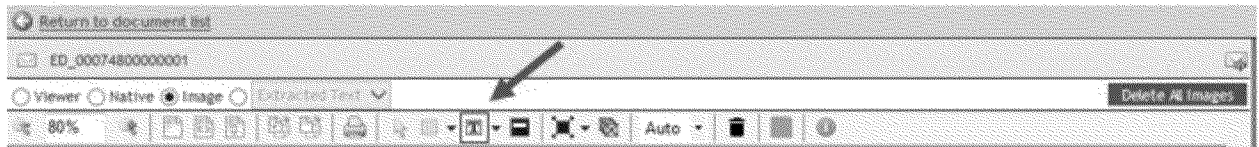
1. To create a redaction, make sure you are in Image mode in the Document viewer.



2. Look to the toolbar at the top of your screen. See the solid black square with the drop down menu. If you hover your cursor over it, it will display “Redact”.



3. The drop down options when you click on the down arrow will be *Black*, *Cross*, *Text*, or *White*. Always select *Text*. When you have *Text* selected, the icon will look like below. Once this is selected, it will remain in *Text* mode unless you change it or sign out.



4. To make a redaction, click on your document and drag to create a square text box. You will be able to resize or move this text box so that it conceals the information that is exempt from disclosure.
5. To change the text that is displayed in the box, right click on the box. This will

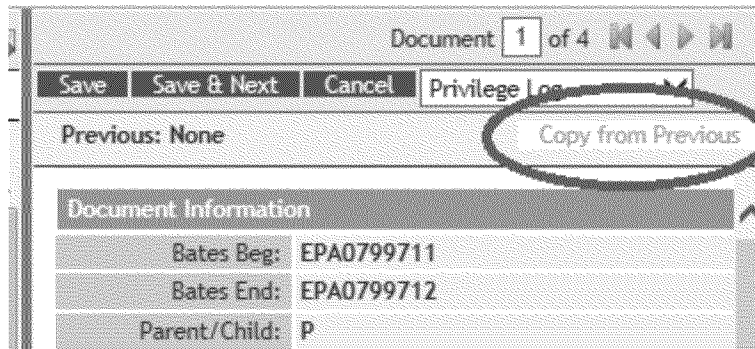
allow you to select the appropriate basis for withholding from a series of drop down choices.

6. To delete a redaction, right click on the redaction and select delete.
7. Remember that the coding pane will not be automatically updated when you make a redaction. Be sure to code which exemptions you are asserting.

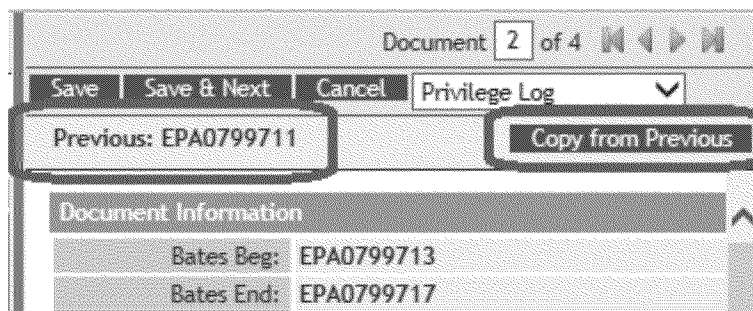
COPY FROM PREVIOUS

At the top right-hand side of the coding pane, there is a “Copy from Previous” button on the Relativity review screen, which will allow you to copy the coding from the most recently coded document in your current review session. This button may save time if you are working in a sequence of similar documents.

1. To use Copy from Previous, you must first code at least one document. If you have not yet coded a document in your current session, or if you click Save (as opposed to Save & Next) or Cancel after reviewing a document, the layout is displayed as read-only and the Copy from Previous button is disabled:



2. Once you have coded a document in the current session and hit Save & Next, the Previous field will show the document identifier of the document that you last coded, and the Copy from Previous button will be enabled:



3. Relativity will also display a gray arrow icon next to the fields with values that will be

copied from the previous document when you use Copy from Previous (Document Status, Privilege Basis, and Reviewer Comments). After you click Copy from Previous, the gray arrow icon will be replaced with a green arrow icon. The icon redisplay next to a copied field that you have modified. You must still click Save or Save & Next to apply the changes that you have copied into the document.

How to effectively use Copy from Previous

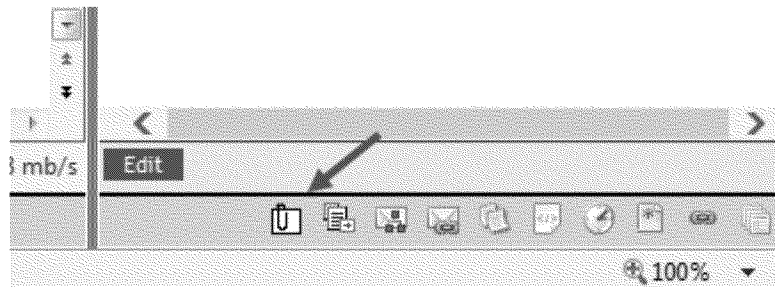
Use the Copy from Previous function when you want to copy the coding values of the designated fields from the last-saved document to the current one, like in cases where you have a series of similar documents one after another. After Relativity populates the layout with these coding values, you can still modify them (as you might need to, for instance, when copying a Privilege Basis description from an email into one of its attachments). After making any necessary changes, click the Save & Next button to save your changes and review a new document.

REVIEWING FAMILY MEMBERS AND DUPLICATES

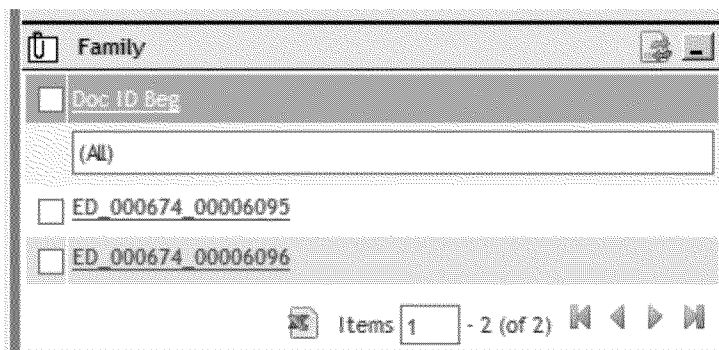
When looking at an attachment, it can be helpful to view the parent email to gain important context. When looking at an email communication, it may be helpful to view the attachments that are referenced. To view a document's family, follow the steps below.

1. FAMILY MEMBERS

- a. Find the paperclip icon in the bottom right corner of your screen. Click it.



- b. This will provide you with a small viewing pane that contains list of documents, likely titled with a series of Doc ID numbers. Each number is a hyperlink to a document.

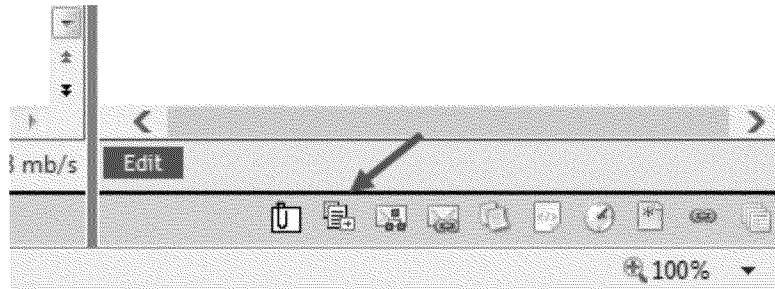


- c. The uppermost document will be the parent email. The descending documents are attachments.
- d. After clicking through the family and making coding changes or gathering information, to return to your original document, look to the upper left of your screen and click *Return to review queue*.



2. DUPLICATES

- a. The Duplicates Icon should be located next to the paperclip icon,



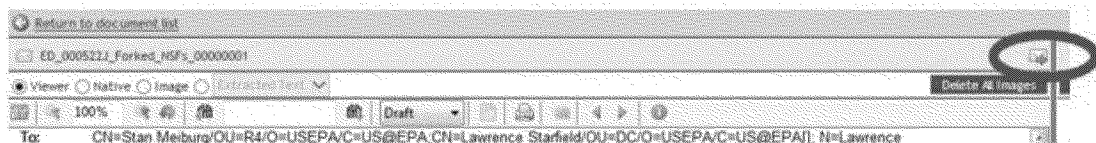
- b. Just like with family members, you will see a small viewing pane that will display any duplicates. It can be navigated similarly, and when you are finished coding any duplicates, you can return to your initial document by selecting return to review queue.

EMAILING A DOCUMENT TO YOUR CASE MANAGER

If you have a question about a document, it is often easiest to send a link to the case manager.

Relativity has an easy tool to help with this.

1. Locate the email icon with the green arrow in the upper right of your viewing pane

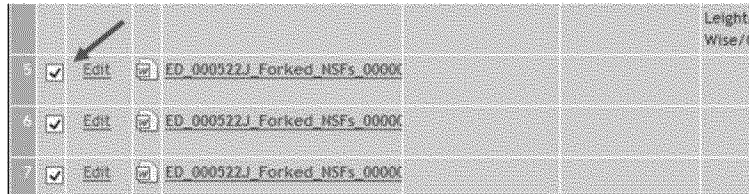


2. Click the icon, this will open up an outlook message with a direct link to the document. Send the document to your case manager with a note about your question and they will be able to open up the document themselves to help with your issue.

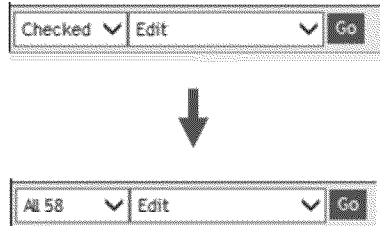
GETTING DOCUMENTS OUT OF RELATIVITY

If you are a first line reviewer, there is likely no reason for you to print or produce documents from Relativity. If you are helping with case management, you may need to get documents out of the database for a number of reasons.

1. *Running a Production:* You may be at the end of your review and ready to deliver your final product to a requester. This will require the help of the e-discovery team in OEI. When you are ready to run a production, send an email to ediscovery@epa.gov. You should describe which documents need to be produced, if you would like them to be produced as images or in native format, and how you would like the documents to be stamped. The E-discovery team may follow up to clarify those and other details. If you know that you are going to request a large production, it can be helpful to reach out in advance.
2. *Printing Images:* If you are not running a final production, but rather need copies of one or more documents for some internal review, you can print images of your documents with or without redactions. Follow the steps below.
 - a. Check the boxes of the documents that you would like to produce.



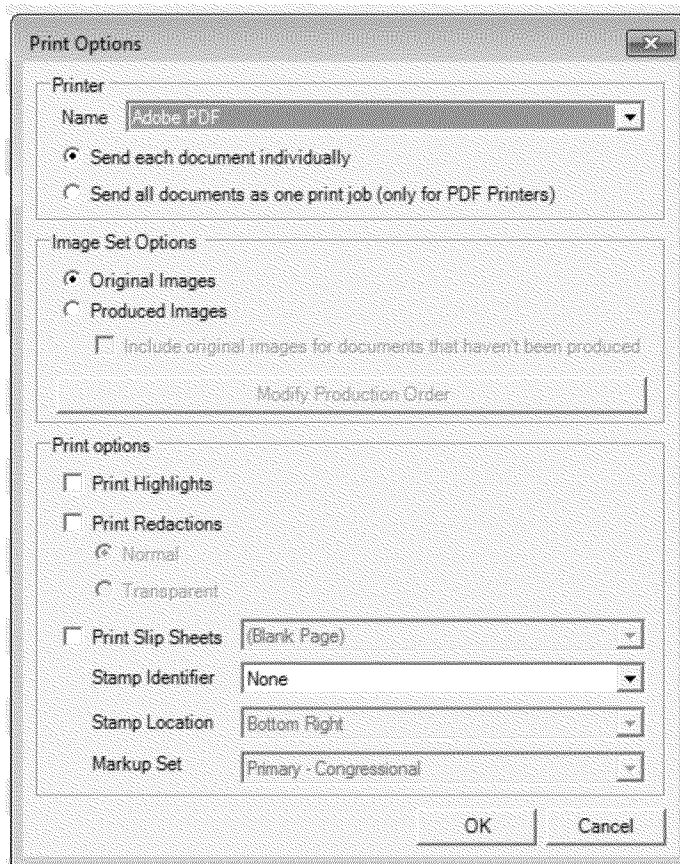
- b. Alternatively, if you would like to print all of the documents in a particular saved search or folder, you can select “All” documents from the drop down in the lower left of your screen.



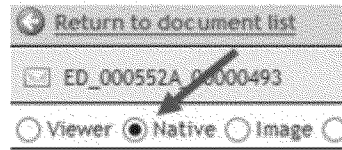
- c. Using the second drop down menu, select “Print Images” and then press “Go”.



- d. You will be prompted with a number of choices. If you are trying to create a PDF, select a PDF printer. You have the options to send multiple documents as a group, print highlights or redactions, and select markup sets. Once you have set up your print job, press “OK” and Relativity will print your images. If you are printing to PDF, you will be prompted to save the PDF.



3. *Opening in Native*: If you need to view or circulate a native file, open it using the native viewer and proceed from there.



Redacting in Adobe Acrobat Pro DC

Use these instructions to redact content in Adobe Acrobat Pro DC

- (1) Choose **Tools > Redact**. The Redact toolset is displayed in the secondary toolbar.
- (2) In the secondary toolbar, choose **Mark for Redaction > Text & Images**.
- (3) (Optional) To set the appearance of redaction marks, click **Properties** in the secondary toolbar. (See Change the look of redaction markers.)

Note: The FOIA requires that the Agency provide an estimate of the volume of redacted information to the requester. This includes redaction marks within documents. Therefore, you must always use redaction marks or borders that are visible. In other words, never place a white redaction mark on a white background.

- (4) Mark items you want to remove by doing any of the following:

- Double-click to select a word or image.
- Drag to select a line, block of text, object, or area.
- Press Ctrl as you drag to select areas of a page in a scanned document.

Note: To preview how your redaction marks appear, hold the pointer over the marked area.

- (5) To apply multiple code entries to a single redaction, right-click a redaction mark and select an option. For more information, see Apply multiple code entries to a redaction. Tip: Use the **Find Text** tool to find and remove words or phrases in one or more PDFs that contain searchable text. (see below)

- (6) (Optional) To repeat a redaction mark, right-click it and choose **Repeat Mark Across Pages**. This feature is convenient if a particular header, footer, or watermark appears in the same location on many pages.

- (7) When you have finished marking the items you want to redact, click **Apply** in the secondary toolbar to remove the items, then click **OK**. The items aren't permanently removed from the document until you save it.

- (8) If you want to search for and remove hidden information in the document by using the **Remove Hidden Information** feature, click **Yes** in the dialog box. Otherwise, click **No**.

- (9) Choose **File > Save**, and specify a filename and location. The suffix “**_Redacted**” is appended to the filename. If you don't want to overwrite the original file, save the file with a different name, at a different location, or both.

Tip: Use the **Find Text** tool to find and remove words or phrases in one or more PDFs that contain searchable text. (see below)

Search and Remove Text

Note: The **Find Text** tool doesn't search secured (encrypted) PDFs.

(1) Choose **Tools > Redact**.

The Redact toolset is displayed in the secondary toolbar.

(2) In the secondary toolbar, choose **Mark For Redaction > Find Text**.

(3) In the **Search** dialog box, specify if you want to search the current PDF or all PDFs in another location.

(4) Do one of the following:

- To search for only one word or phrase, choose **Single Word Or Phrase** and type the word or phrase in the text field.
- To search for multiple words, select **Multiple Words Or Phrase**, and then click **Select Words**. Type each word in the **New Word Or Phrase** text field and click **Add**. You can also import a text file with the list of words or phrases to search for.
- To search for a pattern (for example, phone numbers, credit card numbers, email addresses, social security numbers, or dates), click **Patterns**. Choose one of the available patterns. You can change the language version of the patterns. (See Select a different language version for patterns.)

(5) Click **Search & Remove Text**.

(6) In the search results, click the plus sign (+) next to the document name to see all occurrences of the word or phrase. Then, select the occurrences you want to mark for redaction:

- To select all occurrences in the list, click **Check All**.
- To select individual occurrences, click the check box for each one you want to redact. Click the text next to a check box to view the occurrence on the page.
- To mark none of the occurrences, close the **Search** dialog box or click **New Search** to start over.
- To mark whole words or partial words (characters) for redaction, select the option under **Redaction Mark Options**. For partial words, select **Mark Partial Word (s) For Redaction** the **Settings** dialog box appears. In the **Settings** dialog box, specify the number and location of the characters for redaction. Character redaction is useful if you're searching for a pattern, like credit card numbers, and want to leave part of the number visible for identification purposes.

(7) If you selected occurrences that you want to mark for redaction, click **Mark Checked Results For Redaction**. The items you selected in the list are shown marked for redaction.

Note: If you haven't saved the file, you can select redaction marks in the document and press **Delete** to remove the redaction mark. The redaction marks become permanent after you save the file.

- (8) To remove the marked items, click **Apply** in the secondary toolbar, and then click **OK**. The items aren't permanently removed from the document until you save it.
- (9) If you want to search for and remove hidden information in the document by using the **Remove Hidden Information** feature, click **Yes**. Otherwise, click **No**.
- (10) Choose **File > Save**, and specify a filename and location. If you don't want to overwrite the original file, save the file with a different name, at a different location, or both.

Find and remove hidden content

Tip: Use the **Remove Hidden Information** feature to find and remove content from a document that you don't want, such as hidden text, metadata, comments, and attachments. When you remove items, additional items are automatically removed from the document. Items that are removed include digital signatures, document information added by third-party plug-ins and applications, and special features that enable Adobe Reader users to review, sign, and fill PDF documents.

Note: To examine every PDF for hidden content before you close it or send it in email, specify that option in the **Documents** preferences using the **Preferences** dialog box.

- (1) Choose **Tools > Redact**.

The Redact toolset is displayed in the secondary toolbar.

- (2) In the secondary toolbar, click **Remove Hidden Information**.

If items are found, they are listed in the **Remove Hidden Information** panel with a selected check box beside each item.

- (3) Make sure that the check boxes are selected only for the items that you want to remove from the document. (See Remove Hidden Information options.)

- (4) Click **Remove** to delete selected items from the file, and click **OK**.

- (5) Choose **File > Save**, and specify a filename and location. If you don't want to overwrite the original file, save the file with a different name, at a different location, or both.

The selected content is permanently removed when you save the file. If you close the file without saving it, repeat this process, making sure to save the file.

Tip: Use this function to take file attachments you intend to withhold based on a FOIA exemption out of Adobe documents.

Note: When marking documents for redactions in Adobe, always save 2 versions of the document:

- One version with the redaction marks unapplied
 - This version will be the “review” version. The redaction marks will be visible along with the content you intend to apply the redaction mark to.
 - This version will also be uploaded to FOIAonline but not released to the requester.
- One version with the redaction marks applied
 - This will be your production version that will be released to the requester.

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TABLE OF CONTENTS

STEP 5: Production of Responsive Records

Checklist: What to Include in a Final Response.....	92
Interim Response Letter Template.....	96

Checklist: What to Include in a Final Response Letter

The checklist below details items to be included in a final response letter and provides sample language that may be useful. Draft your closeout letter to fit the particular needs of a request, but be sure it includes the key components below. Following signature of the letter, the letter should be scanned into FOIAonline even if it is not being delivered electronically.

*Print on Agency Letterhead
[Date Stamp]*

*[Name
Organization
Street
City, State Zip Code]*

Re: Freedom of Information Act Request No. EPA-/XX-XXXX-XXXXXX/, Final Response

Dear *Mr./Ms. [Last name]*:

1. SUMMARY OF REQUEST

- *Your letter should begin with the request number and summary of the request*
- *Sample language:*

This letter concerns the above-referenced FOIA request, received by the U.S. Environmental Protection Agency (EPA or Agency) on *[Month, Day, Year]*, in which you requested, *[INSERT a description of the FOIA request. If the request has been clarified, include the most recent clarification and note when it was clarified. Note key correspondence or communication with the requester, provide a timeline of EPA's response.]*.

2. DISPOSITION

- *State which one of the following dispositions applies:*
 - *Granted. The records, in their entirety, may be released to the requester.*
 - *Partial Grant/Partial Denial. Portions of the record will be withheld from the requester if covered by either one or multiple FOIA exemptions. The portions of the record that are not redacted are released to the requester.*
 - *Denial. The record, in its entirety, will be withheld from the requester if covered by either one or multiple FOIA exemptions.*
 - *No Record. If, after a reasonable search likely to uncover all responsive documents, no records are located that are responsive to the request, the requester will be informed in writing.*

3. DESCRIPTION OF RECORDS

- Next, if the request is being granted in full, describe the records being provided
- Sample language:

The Agency has concluded its search for records responsive to your request and is providing the requested records in full. ***[INSERT a description of the records that are being provided]***.

- If records are being withheld in full or in part, describe the records. If there is a large volume of records that are being withheld, include an index of those records.
- Sample language:

The Agency has concluded its search for records responsive to your request and is ***[providing a portion of the requested records, [INSERT a description of the records that are being provided] / withholding all responsive records]***. The EPA is withholding # records in full and # records in part.

- If records are being withheld in whole or in part, you must note which FOIA exemptions are the basis for the withholding(s).
- Sample language:

Records are being withheld pursuant to: 5 U.S.C. § 552(b)(#), ***[shorthand description of applicable exemption, such as: 552(b)(5), the Deliberative Process Privilege / 552(b)(5), the Attorney Client Privilege/552(b)(5), the Attorney Work Product Privilege / 552(b)(6) Personal Privacy]***. The records are exempt from disclosure because they ***[briefly describe reason for withholding such as: are predecisional and deliberative and would harm agency decision making if released (DPP)/ are confidential communications between an agency attorney and client concerning legal advice (ACP)/ are documents prepared by, or at the direction of, an attorney in contemplation of litigation(AWP)/ contain personal information which would be an unwarranted invasion of personal privacy if released (PP)]***. The attached index of withholdings provides further information concerning the withheld records ***[or if voluminous – “The attached appendix contains a categorical description of withholdings and a volume estimate.”]***.

4. COST INFORMATION

- Inform the requester of the fees that are being assessed for the request and how to pay them.
- Sample language:

The cost to process your request was \$[#]. Please see the attached invoice for billing and payment instructions.

5. FINAL APPEAL RIGHTS AND CONTACT INFORMATION

- *Inform the requester that they may appeal the request, and provide them contact information for the appeal, the FOIA Public liaison, and OGIS. Also include the relevant staff person's contact information. The requester may want to simply seek clarification about something they don't understand rather than go through the appeals process.*
- *Sample language (NOTE: THE FOLLOWING APPEAL LANGUAGE HAS BEEN RECENTLY UPDATED CONSISTENT WITH THE FOIA IMPROVEMENT ACT OF 2016):*

APPEAL LANGUAGE FOR ALL FINAL FOIA RESPONSES, EXCEPT AS NOTED BELOW:

This letter concludes our response to your request. You may appeal this response by email at hq.foia@epa.gov, or by mail to the National Freedom of Information Office, U.S. EPA, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, DC 20460. Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue. If you are submitting your appeal by hand delivery, courier service, or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, DC 20001. Your appeal must be in writing, and it must be received no later than 90 calendar days from the date of this letter. The Agency will not consider appeals received after the 90-calendar-day limit. Appeals received after 5:00 pm EST will be considered received the next business day. The appeal letter should include the FOIA tracking number listed above. For quickest possible handling, the subject line of your email, the appeal letter, and its envelope, if applicable, should be marked "Freedom of Information Act Appeal." Additionally, you may seek dispute resolution services from EPA's FOIA Public Liaison at hq.foia@epa.gov or (202) 566-1667, or from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, 8610 Adelphi Road, College Park, MD 20740-6001; email: ogis@nara.gov; telephone: (202) 741-5770 or (877) 684-6448; or fax: (202) 741-5769.

If you have any questions concerning this response, please contact *[Staff contact]* of my staff at *[###-###-####]*.

APPEAL LANGUAGE IF THERE IS AN INITIAL WITHHOLDING BASED ON EXEMPTION 4:

This letter concludes our response to your request. As noted above, the information withheld under Exemption 4 will be reviewed by the appropriate legal office, which will issue a final confidentiality determination. Therefore, you do not need to appeal the withholding of information under Exemption 4. Once the legal office issues a final confidentiality determination, EPA will notify you whether the information qualifies for confidential treatment or may be released. To the extent you would like to appeal any other issue, including any non-Exemption 4 withholdings, you may appeal this response

by email at hq.foia@epa.gov or by mail to the National Freedom of Information Office, U.S. EPA, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, DC 20460. Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue. If you are submitting your appeal by hand delivery, courier service or overnight delivery you must address your correspondence to 1301 Constitution Avenue, N. W., Room 6416J, Washington, DC 20004. Your appeal must be in writing, and it must be received no later than 90 calendar days from the date of this letter. Appeals received after 5:00 pm EST will be considered received the next business day. The Agency will not consider appeals received after the 90-calendar-day limit. The appeal letter should clearly identify the determination being appealed, including the assigned FOIA tracking number shown above. For quickest possible handling, the subject line of your email, the appeal letter, and its envelope, if applicable, should be marked "Freedom of Information Act Appeal." Additionally, you may seek dispute resolution services from EPA's FOIA Public Liaison at hq.foia@epa.gov or (202) 566-1667, or from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail to the Office of Government Information Services, National Archives and Records Administration, 8610 Adelphi Road, College Park, MD, 20740-6001; email: ogis@nara.gov; telephone: (202) 741-5770 or (877) 684-6448; or fax: (202) 741-5769.

If you have any questions concerning this response, please contact *[Staff contact]* of my staff at *[###-###-####]*.

6. SIGNATURE

- o *Be sure your letter is signed at the Division Director level or above.*

Interim Response Letter Template

The below template is one way to correspond with a requester concerning an interim production. You may send an email, letter, or message through FOIA Online, and there are many different ways to communicate about an interim response. Just be clear that the production is interim and ensure that you are including the following components in your correspondence:

- Request information (number, date received, summary)
 - Description of the interim production (number of records, general description)
 - Anticipated closeout date/upcoming productions
 - Notice that appeal information will be provided at close out
 - Contact information
-

[Print on Agency Letterhead]

[Date Stamp]

*[Name
Organization
Street
City, State Zip Code]*

Re: Freedom of Information Act Request No. EPA-*[XX-XXXX-XXXXXX]*

Dear *Mr./Ms. [Last Name]*:

This letter concerns the above-referenced FOIA request, received by the U.S. Environmental Protection Agency (EPA or Agency) on *[Month, Day, Year]*, in which you requested, *[INSERT a description of the FOIA request. If the request has been clarified, include the most recent clarification and note when it was clarified.]*. The Agency is now releasing records in response to your request. Please note that this is an interim response, and the EPA continues to work on your request.

The records EPA is releasing include *[INSERT a brief description of the records that are being produced]*.

The Agency expects to complete its response to your request by *[Month, Day, Year]*.
[OPTION: INSERT a description of a rolling production schedule or when the next interim production is expected if there will be additional interim productions.]

Again, your request is not being closed at this time. When your request is closed, you will receive information concerning your appeal rights for any part of EPA's response. If you have

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any questions about this interim production or your request generally, please contact **[First Name Last Name]** at [xxxxxxx]/@epa.gov or by phone at [XXX-XXX-XXXX]. Additionally, you may seek assistance from EPA's FOIA Public Liaison at hq.foia@epa.gov or call (202) 566-1667. Last, you may also seek assistance from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, 8610 Adelphi Road, College Park, MD 20740-6001; email: ogis@nara.gov; telephone: (202) 741-5770 or (877) 684-6448; or fax: (202) 741-5769.

Sincerely,

[NAME]

[TITLE]